

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. 2913/मुं/2019 (नि.व.2010-11)
ITA NO. 2913/MUM/2019 (A.Y.2010-11)
आअसं. 2914/मुं/2019 (नि.व.2011-12)
ITA NO. 2914/MUM/2019 (A.Y.2011-12)

Income Tax Officer -6(1)(4),
Room No.508, 5th Floor,
Aaykar Bhavan, M.K.Road,
Mumbai 400 020.

: अपीलार्थी/ **Appellant**

बनाम/ Vs.

M/s. Bombay Offset Pvt. Ltd.
Unit No.7, Shivshakti Industrial Estate,
JR Boricha Marg, Lower Parel,
Mumbai 400 011
PAN: AAACB1781E

: प्रत्यर्थी/ **Respondent**

Revenue by : Shri Ajay Pratap Singh
Assessee by : None

सुनवाई की तारीख/ : 12/10/2020
Date of Hearing
घोषणा की तारीख / : 14/12/2020
Date of Pronouncement

आदेश/ ORDER

These two appeals by the Revenue are directed against the orders of Commissioner of Income Tax (Appeals)-12, Mumbai [in short 'the CIT(A)'] for the assessment years 2010-11 and 2011-12 respectively. Both the impugned orders are of even date i.e. 11/01/2019. Since, the issue involved and the grounds of appeal in

both these appeals are identical, these appeals are taken up together for adjudication and are disposed off by this common order.

2. The brief facts of the case as emanating from records are: The assessee is engaged in the business of printing. The assessment for assessment years 2010-11 and 2011-12 in the case of assessee was reopened on the basis of information received from Sales Tax Department, Government of Maharashtra by DGIT(Investigation), Mumbai that the assessee had obtained accommodation entries from M/s. Padmavati Enterprises, a declared hawala dealer as under:

For Assessment Year 2010-11	- Rs. 11,43,177/-
For Assessment Year 2011-12	- Rs. 6,68,551/-

The assessee failed to appear before the Assessing Officer despite service of notice, hence, the Assessing Officer completed the assessment for the impugned assessment years under section 144 r.w.s. 147 of the Income Tax Act, 1961 (in short 'the Act'). In the absence of any documentary evidence to prove the genuineness of the purchases, the Assessing Officer made addition of the entire bogus purchases in the respective assessment years. Aggrieved by the assessment orders dated 12/02/2016 passed under section 143(3) r.w. 144 r.w. 147 of the Act, the assessee filed appeals before the CIT(A) for the respective assessment years. The CIT(A) vide separate orders for assessment year 2010-11 and 2011-12, restricted the disallowance on bogus purchases to 12.5%. Against the aforesaid findings of CIT(A), the Revenue is in appeal.

3. Shri Ajay Pratap Singh, representing the Department submitted that though the tax effect involved in the appeal is less than the monetary limit specified vide CBDT Circular No. 17/2019, dated 08-08-2019, but the case of assessee falls under

exception specified in para 10(e) of Circular No. 03 of 2018 dated 11/07/2018 and amended on 20/08/2018.

During the assessment proceedings the assessee failed to appear before the Assessing Officer. No documents were filed by the assessee to prove genuineness of the purchases. Even before CIT(A) the assessee failed to prove trail of goods. Further the assessee could not produce the dealer from whom alleged purchases were made. The Id. Departmental Representative prayed for reversing the finding of CIT(A) and restoring the disallowance of bogus purchases as made in the assessment order.

4. Submissions made by Id. Departmental Representative heard and orders of authorities below examined for both the impugned assessment years. The addition in respect of bogus purchases have been made in the impugned assessment years for identical reasons. The assessee failed to appear before the Assessing Officer in assessment proceedings, therefore, the assessment was completed by the Assessing Officer after invoking the provisions of section 144 of the Act. Undisputedly the sales declared by the assessee were accepted by the Assessing Officer. Without corresponding purchases there cannot be sales, therefore, in such like bogus transactions it is only the profit element embedded in bogus purchases that has to be brought to tax.[Re.PCIT vs. Paramsakhti Distributors Pvt. Ltd., Income Tax Appeal No.413 of 2017 decided on 15/07/2019 by Hon'ble Bombay High Court]. I find no infirmity in the impugned orders, hence, the same are upheld and appeals by the Revenue for assessment year 2010-11 and 2011-12 are dismissed.

5. No appeal/cross objections filed by the assessee against the orders of CIT(A) has been brought to the notice of Bench. In case any appeal/cross objections by the assessee against impugned orders of CIT(A) are noticed, then this order may be

recalled and the cross appeals may be listed together for disposal by a common order.

6. In the result, both appeals by the Revenue are dismissed.

Order pronounced in the open court on Monday the 14th day of December, 2020.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated: /12/2020

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