

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, MUMBAI**

**BEFORE SHRI MAHAVIR SINGH, VP &
SHRI S. RIFAUR RAHMAN, AM**

आयकरअपीलसं./ I.T.A. No. 4816, 4817 & 4818/Mum/2019
(निर्धारणवर्ष / Assessment Year: 2009-10 to 2011-12)

Chhabil Tagatmal Jain, Mahima Steel, Ground Floor, 3 rd Kumbharwada, Charni Road, Mumbai-400 004	बनाम/ Vs.	ITO-19(1)(3), Matru Mandir, Room No. 220, Tardeo Road, Mumbai-400 007
स्थायीलेखासं ./जीआइआरसं ./PAN No. ACSPS5437P		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri V. K. Tulsian, AR
प्रत्यर्थीकीओरसे/Respondentby	:	Ms. Shreekala Pardeshi, DR
सुनवाईकीतारीख/ Date of Hearing	:	16.12.2020
घोषणाकीतारीख / Date of Pronouncement	:	04.01.2021

आदेश / ORDER

Per S. Rifaur Rahman, Accountant Member:

The present three appeals have been filed by the assessee against the order of Ld. Commissioner of Income Tax in short referred as ‘Ld. CIT(A)’, Mumbai, dated 10.06.2019 for Assessment Year (in short AY) 2009-10 to 2011-12 respectively.

2. Since the issues raised in all the appeals are identical, therefore, for the sake of convenience, these appeals are clubbed, heard and disposed off by this consolidated order. First, we are taking ITA No. 4816/Mum/2019 for Assessment Year 2009-10 as lead case

3. The brief facts of the case are, assessee is an individual and filed its return of income for Assessment Year 2009-10 on 25.09.2009. The return was processed u/s 143(1) of the Act and subsequently, the assessment was reopened u/s 147 of the Act by issuing notice dated 07.03.14 u/s 148 of the Act. Based on the information received from Sales Tax Department, Maharashtra in respect of the dealers indulging in providing accommodation entries by issuing bogus sales /purchase bills without supplying any goods and this information was based on the admission of dealers vide their statements filed before the Sales Tax authorities. Based on the above said information, AO observed that assessee is also one of the beneficiaries of accommodation entries from 18 dealers during this assessment year. Accordingly, AO completed the assessment by estimating the income @ 12.5% of the alleged purchases.

4. Aggrieved with the above order, assessee preferred the appeal before Ld. CIT(A). During the appellate proceedings, Ld. CIT(A) issued several notices to the assessee, but there was no compliance and therefore, Ld. CIT(A) issued notice for enhancement of income u/s 251(1)(a) of the Act on 05.12.2018, but the same was also not complied by the assessee. Further, based on the facts, Ld. CIT(A) dismissed the appeal of the assessee and also enhanced the disallowance @ 100% of the alleged bogus purchases.

5. Aggrieved with the above, assessee is in appeal before us.

6. Considered the rival submissions and material placed on record. We notice that Ld. CIT(A) has adjudicated the issue on merit and also enhanced the income without giving proper opportunity to the assessee. Ld. CIT(A) should not have enhanced the income without hearing to the assessee. Since the issue was decided ex-parte and now assessee is in appeal before us raising the grounds of appeal, therefore for the sake of natural justice, we remit the issues raised by the assessee to the file of Ld. CIT(A) to adjudicate the issue on merit as per law after

giving proper opportunity of being heard to the assessee and we also direct the assessee to properly represent the case before first appellate authority. Accordingly, the grounds raised by the assessee are **allowed for statistical purposes.**

7. Since the grounds of other appeal filed by the assessee for Assessment Year 2010-11 & 2011-12 are similar to the appeal filed by the assessee for Assessment Year 2009-10, therefore the grounds raised in these appeals are also **allowed for statistical purposes with same direction.**

8. In the net result, all the appeals filed by the assessee are **allowed for statistical purposes.**

Orders pronounced in the open court on 04.01.2021.

Sd/-
(Mahavir Singh)
Vice President

Sd/-
(S. Rifaur Rahman)
Accountant Member

Mumbai; Dated : 04.01.2021
Sr.PS. Dhananjay

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Assessee
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