

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. 2315 /मुं/2019 (नि.व.2011-12)
ITA NO. 2315/MUM/2019 (A.Y.2011-12)

Income Tax Officer 29(2)(3),
c-10, 2ND Floor, Room No.204,
Pratyakshakar Bhavan, BKC,
Bandra (E), Mumbai 400 051.

: अपीलार्थी/ Appellant

बनाम/ Vs.

M/s. Manisha Rubber Enterprises,
50, Unique Industrial Estate,
Opp. Jawahar Cinema, Dr.Rajendra Prasad Rd.,
Mulund (W),Mumbai 400 080.
PAN: AAAFM6198D

: प्रत्यर्थी/ Respondent

Assessee by : None
Revenue by : Shri Ajay Pratap Singh
सुनवाई की तारीख/
Date of Hearing : 13/10/2020
घोषणा की तारीख /
Date of Pronouncement : 08/01/2021

आदेश/ ORDER

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-40, Mumbai (in short 'the CIT(A)') dated 09/01/2019 for the assessment year 2011-12.

2. The brief facts of the case as emanating from the records are: The assessee is engaged in manufacturing of rubber products like conveyor belts, gaskets, etc. The assessee filed its return of income for the impugned assessment year on 27/07/2011 declared total income of Rs.92,730/-. On the basis of information received from

DGIT(Inv.) the assessment in the case assessee for assessment year 2011-12 was reopened. As per the information received, the assessee has obtained bogus purchase bills amounting to Rs.6,59,715/- during the period relevant to the assessment year under appeal from M/s.Payal Enterprise, a declared hawala dealer. During assessment proceedings the Assessing Officer asked the assessee to prove genuineness of the purchases. The assessee failed to produce documents like octroi receipts, transport receipts, stock register, etc. to show trail of goods. The assessee even failed to produce the supplier of the goods. Even the notice sent by the Assessing Officer under section 133(6) of the Income Tax Act, 1961 (in short 'the Act'), to the supplier on the address provided by the assessee remain unresponded. Thus, the Assessing Officer made addition of Rs.1,64,929/- by estimating GP @25% on bogus purchases. Aggrieved by assessment order dated 23/03/2016 passed under section 143(3) r.w.s. 147 of the Act, the assessee filed appeal before the CIT(A) inter-alia challenging the addition on account of bogus purchases. Before the CIT(A) the assessee agreed for estimated addition @20% on bogus purchases. The CIT(A) restricted the addition to 20% of such purchases. The Revenue is in appeal against marginal relief allowed by the CIT(A) on bogus purchases.

3. Shri Ajay Pratap Singh, representing the Department vehemently defended the assessment order and prayed for reversing the finding of CIT(A). The Id. Departmental Representative submitted that the Assessing Officer has been quite generous in restricting the addition to 25%, despite the fact that the assessee failed to prove genuineness of the purchases and the supplier.

4. The submissions made by Id. Departmental Representative heard, orders of authorities below examined. Taking into consideration entirety of facts, I am of the considered view that addition @25% estimated by Assessing Officer on bogus purchases is on the higher side. Before the CIT(A), the assessee admitted for addition @20% on bogus purchases. The CIT(A) in assessee's own case for assessment year 2009-10 restricted the addition to 20% of bogus purchases. The

same was accepted by the Department. No distinguishing fact has been brought before us by the Id. Departmental Representative in the instant assessment year. In any case the addition made by Assessing Officer and the CIT(A) is on mere estimations. I find no error in the action of CIT(A) in restricting the addition to 20%. Thus, the findings of CIT(A) on the issue are upheld and the appeal by Revenue is dismissed being devoid of any merit.

5. No appeal/cross objections filed by the assessee against the order of CIT(A) has been brought to the notice of Bench. In case any appeal/cross objections by the assessee against impugned order of CIT(A) is 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, appeal by the Revenue is dismissed.

Order pronounced in the open Court on Friday, the 08th day of January, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 08/01/2021

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