



IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA no.4149/Mum./2019
(Assessment Year : 2010-11)

Income Tax Officer
Ward-33(1)(3), Mumbai

..... Appellant

v/s

M/s. Globuz Inc.
Unit no.5, Islam Compound
Dahanukarwadi, Kandivali (West)
Mumbai 400 067 PAN – AAIFG1551C

..... Respondent

Revenue by : Shri Sanjay J. Sethi
Assessee by : None

Date of Hearing – 08.12.2020

Date of Order – 28/01/2021

ORDER

The aforesaid appeal has been filed by the Revenue challenging the order dated 28th March 2019, passed by the learned Commissioner of Income Tax (Appeals)-45, Mumbai, pertaining to the assessment year 2010-11.

2. The dispute in the present appeal is confined to partial relief granted by learned Commissioner (Appeals) in the matter of addition made by the Assessing Officer on account of non-genuine purchases.

3. When the appeal was called for hearing, no one was present on behalf of the assessee to represent the case. There is no application

seeking adjournment either. Considering the nature of dispute, I proceed to dispose off the appeal ex-parte qua the assessee after hearing the learned Departmental Representative and on the basis of material available on record.

4. Brief facts are, the assessee, a partnership firm, is engaged in manufacturing of advertising material. For the assessment year under dispute, the assessee filed its return of income on 15th October 2010, declaring total income of ` 71,070. The return of income so filed was initially processed under section 143(1) of the Act. Subsequently, on the basis of information received from the Sales Tax Department, Government of Maharashtra, through DGIT (Inv.), Mumbai, that purchases worth ` 10,53,972, claimed to have been made during the year from seven parties are non-genuine, as, the concerned parties were identified as hawala operators, the Assessing Officer re-opened the assessment under section 147 of the Act. During the assessment proceeding, the Assessing Officer called upon the assessee to prove the genuineness of such purchases through supporting evidence. Further, to independently verify the genuineness of such purchases, the Assessing Officer issued notices under section 133(6) of the Act to the concerned parties. However, as alleged by the Assessing Officer, no reply was received from the concerned parties in response to such

notices. Not being satisfied with the evidences furnished by the assessee, the Assessing Officer ultimately concluded that the purchases are non-genuine. Proceeding further, the Assessing Officer disallowed the entire purchase made in cash amounting to ` 2,73,351, and disallowed 30.61% from the balance purchases alleged to be non-genuine. The assessee challenged the aforesaid additions before the first appellate authority.

5. After considering the submissions of the assessee in the context of the facts and material on record, learned Commissioner (Appeals) restricted the addition to 12.5% of the alleged non-genuine purchases.

6. I have heard the learned Departmental Representative and perused the material on record. It is evident, the doubt regarding the genuineness of the disputed purchases was on the basis of information received from the Sales Tax Department, Government of Maharashtra. However, the Assessing Officer has accepted the fact that the assessee has produced some supporting evidence to prove the genuineness of purchases. The only reason for which he did not accept the purchases to be genuine is, the assessee neither could produce the concerned parties nor could furnish transportation bills, weighment bills, etc. However, the very fact that the Assessing Officer did not disallow the

entire purchase but has restricted the disallowance to the profit element on the alleged non-genuine purchases indicates that the Assessing Officer also believes that the assessee had purchased the goods, though, may not be from the declared source. In these circumstances, restriction of disallowance to 12.5% is fair and reasonable. Consequently, I fully agree with the decision of learned Commissioner (Appeals). Grounds raised are dismissed.

7. In the result, appeal is dismissed.

Order pronounced on 28/01/2021

**Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER**

MUMBAI, DATED: 28/01/2021

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

*Pradeep J. Chowdhury
Sr. Private Secretary*

By Order

Assistant Registrar
ITAT, Mumbai