

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. 2334 /मुं/2019 (नि.व.2011-12)  
ITA NO. 2334/MUM/2019 (A.Y.2011-12)

Income Tax Officer 29(3)(5),  
C-10, 2<sup>ND</sup> Floor, Room No.211,  
Pratyakshakar Bhavan, BKC,  
Bandra (E), Mumbai 400 051.

: अपीलार्थी/ Appellant

**बनाम/** Vs.

Shri Sandeep Suresh Mayekar,  
Room No.1262, Bldg. No.52,  
Shradha Co-op. Hsg. Soc.,  
Kannamwar Nagar -1, Vikhroli (East),  
Mumbai 400 079  
PAN:AKRPM6350L

: 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 30/01/2019 for the assessment year 2011-12.

2. The brief facts of the case as emanating from records are: The assessee is an electrical contractor. The assessee filed his return of income for the impugned assessment year on 30/09/2011 declaring total income of Rs.9,76,346/-. The return

of the assessee was processed under section 143(1) of the Income Tax Act, 1961 ( in short 'the Act'). On the basis of information received from Sales Tax Department, Government of Maharashtra by DGIT(Inv.), the assessment in the case of assessee for assessment year 2011-12 was reopened. As per the information received the assessee has obtained bogus purchase bills to the tune of Rs.2,53,664/- from M/s. Shruti Traders. During the assessment proceedings, the assessee was directed to produce documents to prove genuineness of the purchases. The assessee failed to substantiate genuineness of the purchases as neither the documents viz.delivery challans, octroi receipts, transport receipts were filed by the assessee to prove trail of goods nor the assessee could produce supplier of goods. The Assessing Officer issued notice under section 133(6) to the supplier however, there was no response to the said notice. The Assessing Officer made addition of Rs.75,490/- by adopting GP rate of 29.76%[GP declared by assessee] on the said bogus purchases. Aggrieved by the assessment order dated 19/01/2016 passed under section 143(3) r.w.s. 147 of the Act, the assessee filed appeal before the CIT(A). The First Appellate Authority after considering the facts of case and various decisions rendered by the Tribunal on similar issue restricted the addition to 6%. Hence, the present appeal by the Revenue.

3. Shri Ajay Pratap Singh, representing the Department submitted that the Assessing Officer had made addition in respect of bogus purchases by adopting GP rate declared by the assessee. Thus, the addition made in assessment order is justified and reasonable. The Id. Departmental Representative prayed for reversing the finding of CIT(A) and upholding the addition made in the assessment order.

4. The submissions made by Id. Departmental Representative heard and orders of authorities below examined. The assessee is an electrical contractor. The assessee allegedly obtained bogus purchase bills to the tune of Rs.2,53,664/- from M/s.Shruti Traders, a suspicious dealer. Since, the assessee failed to prove the genuineness of the purchases the Assessing Officer made addition of Rs.75,490/- in

respect of bogus purchases by adopting GP rate of 29.76%. The CIT(A) granted part relief to the assessee by restricting addition to 6% of the bogus purchases. Considering the smallness of amount involved in the appeal by Revenue I do not deem it appropriate to interfere with the findings of CIT(A).

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

6. 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.

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

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

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

Vm, Sr. PS(O/S)

**प्रतिलिपि अग्रहित**Copy 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**