

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

**ITA No.4225/M/2019
Assessment Year: 2010-11**

Income Tax Officer 26(1)(1), Room No.303, 3 rd Floor, Kautilya Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051	Vs.	Mr. Ajay C. Shah, 60A/11, Sion Mahavir CHS Scheme, Road No.25C, Near Jalin Bhavan, Sion (W), Mumbai - 400022 PAN: AAEPS4543C
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Brajendra Kumar, D.R.

Date of Hearing : 23.12.2020
Date of Pronouncement : 13.01.2021

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the Revenue against the order dated 14.12.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2010-11.

2. At the outset, we would like to mention that neither assessee nor his authorised representative was present when the case was called up for hearing, nor any adjournment application was filed. Therefore, we are disposing of this appeal on merits after hearing the Ld. D.R.

3. The Revenue has challenged the order of Ld. CIT(A) wherein the Ld. CIT(A) has partly deleted the addition @ 87.50% of the bogus purchases as against the 100% made by the AO on account of bogus purchases.

4. The brief facts of the case are that the assessee filed return of income on 31.03.2011 declaring total income of Rs.1,46,231/-. Thereafter, the case of the assessee was reopened under section 147 of the Act by issuing notice under section 148 dated 27.03.2017 after the AO received information from the DDIT(Inv.) Wing, Mumbai that assessee is a beneficiary of bogus purchases to the tune of Rs.5,93,086/-. During the course of assessment proceedings the assessee filed various evidences/details to prove the genuineness of the purchases, however, the AO was not satisfied with the genuineness of these purchases and added the entire amount of bogus purchases of Rs.5,93,086/- to the income of the assessee by framing assessment under section 143(3) read with section 147 of the Act vide order dated 18.12.2017.

5. In the appellate proceedings, the Ld. CIT(A) partly deleted the addition to the extent of 87.50% of the bogus purchases by following the decision of the Hon'ble Gujarat High Court in the case of CIT vs. Simit P. Sheth (2013) 356 ITR 451 (Guj) by holding that only the profit element embedded in the bogus purchases is to be assessed and thus partly allowed the appeal of the assessee by sustaining addition to the extent of Rs.74,136/-.

6. After hearing the Ld. D.R. and perusing the material on record, we observe that the order passed by the Ld. CIT(A) is quite reasoned which has been passed after following the decision of the Hon'ble Gujarat High Court in the case of CIT vs. Simit P. Sheth (supra) wherein it has been held that in case of bogus purchases only the profit element can be brought to tax. Accordingly, we are inclined to uphold the order of Ld. CIT(A) and consequently the appeal of the Revenue is dismissed.

7. In the result the appeal of the revenue is dismissed.

Order pronounced in the open court on 13.01.2021.

**Sd/-
(Amarjit Singh)
JUDICIAL MEMBER**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 13 .01.2021.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.