

**आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“G” BENCH, MUMBAI**

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं  
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
(Hearing through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.621/Mum/2013  
(निर्धारण वर्ष / Assessment Year: 2009-10)

<b>Shri Sunil R. Shirodkar</b> 53, Surajbali Chawl, Ramdas Chowk New Mills Road, Kurla(W) Mumbai-400 070	<b>बनाम</b> / Vs.	<b>Income Tax Officer,</b> <b>Ward-21(3)(2)</b> BKC, Bandra(E) Mumbai-400 051
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>ANTPS-2194-M</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )
<b>Assessee by</b>	:	None
<b>Revenue by</b>	:	Shri T.S. Khalsa- Ld. Sr. DR
सुनवाई की तारीख/ <b>Date of Hearing</b>	:	03/02/2021
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	03/02/2021

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee is a recalled matter since the appeal was earlier disposed-off by co-ordinate bench vide order dated 10/02/2017. However, the order was recalled, upon department's miscellaneous application, in view of the fact that revenue's appeal, on the same very issue was already adjudicated by the Tribunal vide ITA No.161/Mum/2013 order dated 21/11/2014 wherein Ld. AO was directed to restrict the purchase disallowance to the extent of 12% of turnover achieved by the assessee. The

Tribunal, while adjudicating assessee's appeal, directed Ld. AO to restrict the disallowance to 8% of turnover and re-compute income accordingly. Therefore, the directions given in two orders were contradictory and at variance with each other. Concurring with the same, the order passed in ITA No.621/Mum2013 dated 10/02/2017 was recalled and the registry was directed to post the appeal for hearing in due course. Accordingly, the appeal has come up for fresh hearing before us.

2. During the course of hearing, none appeared for assessee. However, upon perusal of MA order, as elaborated in para-1, it is quite evident that a view has already been taken by the bench in revenue's appeal. Therefore, the matter was proceeded with for adjudication.

3. The material facts are that while framing an assessment u/s 143(3) on 26/12/2011, the Ld. Assessing Officer disallowed 20% of purchases and 10% of labor charges claimed by the assessee. Accordingly, the assessee was saddled with aggregate additions of Rs.37.64 Lacs. Upon further appeal, Ld. CIT(A), without confirming individual disallowance, estimated Gross Profit Rate of 10 % of turnover which restricted the additions to the extent of Rs.11.38 Lacs. Aggrieved, the revenue as well as assessee preferred further appeal before us.

4. While adjudicating revenue's appeal, vide ITA No.161/Mum/2013 order dated 21/11/2014, the Tribunal enhanced the estimation to 12% and already took a view in the matter. Therefore, no further relief could be granted to the assessee, at this stage.

5. The appeal stands dismissed.

*Order pronounced on 03<sup>rd</sup> February, 2021.*

**Sd/-**  
**(Mahavir Singh)**  
उपाध्यक्ष / **Vice President**

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 03/02/2021  
Sr.PS, Kasarla Thirumalesh

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
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/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**