

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

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य
एवं माननीय श्री रवीश सूद, न्यायिक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON’BLE SHRI RAVISH SOOD, JM
(Hearing Through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.3902/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2011-12)

ACIT- 21(3) Room No.209, 2 nd Floor Piramal chambers, Parel Mumbai-400 012	बनाम / Vs.	Shri Zaverchand Damji Haria 124, Ashish Industrial Estate Gokhale Road, Mumbai-400 025
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AALPH-7225-H		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)
Assessee by	:	Shri Chhangur Shrikant Chauhan-Ld. AR
Revenue by	:	Shri T.S. Khalsa- Ld. Sr.AR
सुनवाई की तारीख/ Date of Hearing	:	11/02/2021
घोषणा की तारीख / Date of Pronouncement	:	11/02/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year [in short referred to as ‘AY’] 2011-12 contest the order of Ld. Commissioner of Income-Tax (Appeals)-33 Mumbai [in short referred to as ‘CIT(A)’], Appeal No.CIT(A)-33/Rg.21/696/2016-17 dated 13/03/2019 which has restricted the addition on account of alleged bogus purchases to the extent of 12.5% by relying upon certain order of the Tribunal in assessee’s own case for same year.

2. We have carefully heard the rival submissions and perused the relevant material on record. The Ld. DR pleaded for confirmation of addition as made by Ld. AO whereas Ld. AR relied upon the estimation made in the impugned order. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3.1 The material facts are that the assessee being resident individual engaged in manufacturing of garments under proprietorship concern namely M/s Zeal Apparel was assessed for the year under consideration u/s 143(3) r.w.s. 147 vide order dated 15/12/2016. This was second reopening in case of assessee, since the assessment was already framed u/s 143(3) r.w.s. 147 on 31/03/2015.

3.2 The second reopening stem from the fact that pursuant to receipt of certain information from Sales tax Department regarding procurement of bogus bills by assessee from suspicious dealers, it was alleged that the assessee made bogus purchases aggregating to Rs. 45.02 Lacs from two entities, the details of which has already been extracted in para 3.1 of the assessment order. Though, the assessee stated that the purchases were genuine and payment to the suppliers was through banking channels, however, observing that the assessee could not conclusively co-relate the purchases with utilization of the material, Ld. AO estimated addition of 25% against these purchases.

3.3 It could be observed that similar additions were made in the first round of re-opened assessment framed u/s 143(3) r.w.s. 147 on 31/03/2015, wherein the assessee was saddled with similar

disallowances of purchases. However, Ld. CIT(A) restricted the addition to 25%. Upon further appeal, the co-ordinate bench, vide ITA No.300/Mum/2017 order dated 19/09/2018, relying upon the decision of Hon'ble Gujarat High Court in the case of **CIT Vs Simit P.Sheth (356 ITR 451)** restricted the addition to the extent of 12.5% of the purchases under consideration.

4. Following the said decision of Tribunal in ITA No.300/Mum/2017, Ld. CIT(A) directed Ld. AO to estimate the additions @12.5%. Though the assessee has accepted the verdict of Ld. CIT(A), however, the revenue is in further appeal before us by way of present appeal.

5. Upon perusal of impugned order, it is quite evident that the estimations as made by Ld.CIT(A) is in line with the estimation made by the Tribunal in first round in assessee's own case. Facts being quite similar, we do not find any reason to deviate from the same. Therefore, we dismiss the revenue's appeal.

6. The appeal stand dismissed in terms of our above order.

Order pronounced on 11th February, 2021.

Sd/-

(Ravish Sood)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 11/02/2021
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.