

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

**BEFORE SHRI SAKTIJIT DEY (JUDICIAL MEMBER)**

I.T.A. No.4922/Mum/2019  
(Assessment year : 2010-11)

Income-tax Officer-3(2)(4) Mumbai	vs	M/s OHM Packaging Pvt Ltd 102,Atlanta, Nariman Point Mumbai-400 021 <b>PAN : AAACO3984G</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Smt. Smita Verma (DR)
Respondent by	None

Date of hearing	02 -02-2021
Date of Pronouncement	25/02/2021

**ORDER**

**Per Saktijit Dey, JM**

This is an appeal by the revenue against the order dated 24-05-2019 of learned Commissioner of Income Tax (Appeals)-8, Mumbai for the assessment year 2010-11.

2. The solitary dispute in the present appeal is with regard 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. Briefly the facts are, the assessee is a resident company and is engaged in manufacturing and sale of Kraft Line bags and liners. For the assessment year under dispute, assessee filed its return of income on 13-01-2010 declaring total income of Rs.12,40,189/- under the normal provisions and book profit at Rs.15,73,309/- under the provisions of section 115JB of the Income-tax Act, 1961. The return of income filed by the assessee was processed under section 143(1) of the Act. Subsequently, on the basis of information received from the sales-tax department, the Assessing Officer found that purchases worth Rs.1,65,094/- from M/s V.V. Corporation are non genuine, as the said party provides accommodation entries. On the basis of such information, the Assessing Officer reopened the assessment under section 147 of the Act. In course of assessment proceedings, the Assessing Officer called upon the assessee to prove the genuineness of purchases made from M/s V.V. Corporation. Though, the assessee furnished some documentary evidences to prove the purchases; however, the Assessing Officer was not convinced. Further, he alleged that the notice issued under section 133(6) of the Act to the selling dealer returned back unserved. Thus, ultimately, he treated the purchases of Rs.1,65,094/- as non genuine and added back to the income of the assessee. Assessee contested aforesaid addition before learned Commissioner (Appeals). After considering the submissions of the assessee in the context of facts and materials on record, learned Commissioner (Appeals) restricted the addition to 12.5% of the alleged non genuine purchases. Effectively, he disallowed an amount of Rs.20,637/-. Being aggrieved, revenue is before us.

4. When the appeal was called for hearing, no one was present on behalf of the assessee to represent the case. Considering the nature of dispute, I proceed

to dispose of the appeal ex parte qua the assessee after hearing the learned Departmental Representative and on the basis of materials on record.

5. Heard learned Departmental Representative and perused the materials on record. Though, it may be a fact that the assessing officer has received information from the sales-tax department that disputed purchases are non genuine and further, the assessee was unable to prove the genuineness of purchases to the satisfaction of the Assessing Officer, however, it is a fact on record that the Assessing Officer has not disputed either the consumption of goods or sales effected by the assessee. Thus, it has to be accepted that the disputed purchases have entered assessee's stock and utilized in the manufacturing process and ultimately resulting in sales. Therefore, in such circumstances, only the profit element embedded in such purchases can be considered for addition. That being the case, I fully agree with the decision of learned Commissioner (Appeals) in restricting the disallowance to 12.5% of the alleged non-genuine purchases. Grounds are dismissed.

4. In the result, appeal is dismissed.

Order pronounced in the Open Court on this 25 /02/2021.

Sd/-

<b>(SAKTIJIT DEY)</b>
<b>JUDICIAL MEMBER</b>

Mumbai, Dated : 25/ 02/2021.

Pavanan, Sr.P.S (on contract)

Copy of the order forwarded to :

1. The Appellant.
2. The Responent.
3. The CIT(A)
4. 4. The CIT
5. D.R., ITAT, Mumbai.
6. Guard File.

//True Copy//

By order

I.T.A.T., Mumbai

