

IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY (JUDICIAL MEMBER)

I.T.A. No.4875/Mum/2019
(Assessment year 2010-11)

Income-tax Officer-21(1)(2) Mumbai	vs	M/s Barmare Timber Traders Plot No.18, Reti Bunder, Mahim (W) Mumbai-400 016 PAN : AAafb1768L
APPELLANT		RESPONDENT

Appellant by	Ms. Smita Verma, DR
Respondent by	None

Date of hearing	01-02-2021
Date of pronouncement	25-02-2021

ORDER

This is an appeal by the revenue against order dated 30-04-2019 of learned Commissioner of Income-tax (Appeals)-48, Mumbai for the assessment year 2010-11.

2. The dispute in the present appeal is confined to partial relief granted by learned Commissioner of Income-tax (Appeals)-48 in the matter of addition made on account of non genuine purchases.

3. Briefly the facts are, the assessee, a partnership firm, is engaged in the business of trading in bamboos, timbers and building materials. For the assessment year under dispute, assessee filed its return of income on 13-10-2010 declaring income of Rs.8,90,258/-. Initially, assessment in case of the assessee

was completed under section 143(3) of the Act. Subsequently, on the basis of information received from the Sales-tax department through the Investigation Wing that the assessee is a beneficiary of bogus purchase bills issued by hawala operators, 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 of Rs.12,37,674/- claimed to have been made from two parties. Though, the assessee furnished some evidence in support of the purchases made; however, the assessing officer was not convinced. As observed by the assessing officer, notices issued under section 133(6) of the Act to the concerned selling dealers also returned back unserved. Therefore, out of the purchases of Rs.12,37,674/- the assessing officer treated purchases worth Rs.10,14,469/- made from Sumit Sales as non genuine and added back to the income of the assessee. Assessee contested the aforesaid addition before the first appellate authority. After considering the submissions of the assessee, learned Commissioner (Appeals) restricted the disallowance to 12.5% of the disputed purchases. Thus, the addition made by the assessing officer was reduced to Rs.1,26,808/-.

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 perusal of materials on record.

5. Heard learned Departmental Representative and perused the material available on record. Though, the Assessing Officer has disallowed entire purchases made from M/s Sumit Sales on the reasoning that the assessee was unable to furnish any evidence to prove that purchases, however, as observed by learned

Commissioner (Appeals), the Assessing Officer has not disputed that the assessee had effected the corresponding sales. This, in other words, leads to the conclusion that the assessee might have purchased the goods from grey market by suppressing the profit element. In such circumstances, as rightly held by the learned Commissioner (Appeals), only the profit element embedded in such purchases can be considered for addition. Further, in my considered opinion, the disallowance sustained by learned Commissioner (Appeals) by estimating the profit rate at 12.5% is fair and reasonable; hence, does not require any interference. Ground raised is dismissed.

6. In the result, appeal is dismissed.

Order pronounced on 25/02/2021.

Sd/-

SAKTIJIT DEY
JUDICIAL MEMBER

Mumbai, Dt : 25/02/2021

Pavanan

Copy to :

1. Appellant
2. Respondent
3. The CIT concerned
4. The CIT(A)
5. The DR, ITAT, Mumbai
6. Guard File

/True copy/

By Order

Asstt. Registrar, ITAT, Mumbai