

**IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI**  
**BEFORE SHRI SHAMIM YAHYA, AM AND SHRI AMARJIT SINGH, JM**

ITA No. 5740/Mum/2018  
(Assessment Year: 2008-09)

ITO-19(1)(3) Room No. 220, 2 <sup>nd</sup> Floor, Matru Mandir, Tardeo Road, Mumbai -400 007	Vs.	Goyam Jewels 18, 3 <sup>rd</sup> Floor, Fatima Manzil, 216, Raja Ram Mohan Road, Mumbai-400 004
PAN/GIR No. AAFFG 2610 K		
<b>(Appellant)</b>	:	<b>(Respondent)</b>
<b>Appellant by</b>	:	Shri T. S. Khalsa
<b>Respondent by</b>	:	None
<b>Date of Hearing</b>	:	01.03.2021
<b>Date of Pronouncement</b>	:	01.03.2021

**ORDER**

Per Shamim Yahya, A. M.:

This appeal by the Revenue is directed against the order of the learned Commissioner of Income Tax (Appeals)-30, Mumbai (‘ld.CIT(A) for short) dated 09.07.2018 and pertains to the assessment year (A.Y.) 2008-09.

2. The grounds of appeal read as under:

1. Whether on the facts and in the circumstance of the case and in law, the ld. CIT(A) was justified in restricting the net addition on account of bogus purchases to the extent of 3% when in fact the assessee has failed to prove the genuineness of the said purchases?

2. Whether on the facts and in the circumstance of the case and in law, the ld. CIT(A) erred in not considering the order of Hon’ble Supreme Court in the case of N K Protein Ltd. dated 16.01.2017, which is on the similar issue of bogus purchases and when the apex court order was already the law of the land when the ld. CIT(A) has pronounced its order on 16.07.2018?

3. The appellant prays that the order of the order of the Ld. CIT(A) on the above grounds be set aside and that of the A.O. be restored.

3. At the outset, it is noted that the tax effect in this case is below the limit of Rs.50,00,000/- fixed by CBDT vide Circular No. 17/2019 dated 08.08.2019 for filing appeal before the ITAT. Hence, this appeal by the revenue is not maintainable.

4. Ld DR could not dispute that the tax effect is below the said limit. He could not point out that the appeal falls in any of the exceptions carved in said circular. However, he sought liberty for restoration of the appeal if the tax effect is found to be more than the limit prescribed.

5. Upon careful consideration we find that as the tax effect is below the limit fixed by CBDT for filing appeals before the ITAT, this appeal by the revenue is liable to be dismissed in limine.

6. As regards the liberty sought by the Ld DR the same is quite natural and no separate order for that is required.

7. Accordingly the appeal stands dismissed as such.

*Order pronounced under rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1962, by placing the details on the notice board on 01.03.2021*

Sd/-  
(Amarjit Singh)  
Judicial Member

Sd/-  
(Shamim Yahya)  
Accountant Member

Mumbai; Dated :

Roshani, Sr. PS

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai