

IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY (JUDICIAL MEMBER)  
AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)

I.T.A. No.5132 & 5133/Mum/2019  
(Assessment years 2007-08 & 2008-09)

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|---------------------------------------|----|--|
| Income-tax Officer-31(1)(1)<br>Mumbai | vs | Shri Amratlal K BUddhadev<br>9, Gujrat Indl.Compound<br>Vishveshwar Nagar<br>Off Aarey Road, Goregon (E)<br>Mumbai-400 063<br>PAN : AADPB0434A |
| <b>APPELLANT</b>                      |    | <b>RESPONDENT</b>  |

|               |                         |
|---------------|-------------------------|
| Appellant by  | Shri Sanjay Sethi, DR   |
| Respondent by | Shri Kirit Sanghavi, AR |

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| Date of hearing       | 25-02-2021 |
| Date of pronouncement | 11-03-2021 |

**ORDER**

These are revenue's appeals against a common order dated 06-05-2019 of learned Commissioner of Income-tax (Appeals)-42, Mumbai for the assessment years 2007-08 and 2008-09.

2. The only common dispute in these appeals relates to deletion of disallowance made on account of non genuine purchases.
3. Briefly the facts are, the assessee, an individual, is engaged in manufacture and sale of corrugated boxes. For the assessment years under consideration,

assessee had filed his returns of income under section 139(1) of the Act. Returns of income so filed were processed under section 143(1) of the Act. Subsequently, the assessing officer received information that certain purchases made by the assessee in the relevant assessment years from Arun Paper & Iron Traders are non genuine as the said entity, in turn, had purchased the goods from certain dealers who were identified as hawala operators by the Sales-tax department, Government of Maharashtra. On the basis of such information, the assessing officer re-opened the assessments under section 147 of the Act. In course of assessment proceedings, the assessing officer called upon the assessee to prove the genuineness of purchases worth Rs. 6,58,191/- in Assessment Year 2006-07 and Rs. 1,47,392/- in Assessment Year 2007-08 claimed to have been made from Arun Paper & Iron Traders. Further, to independently verify such purchases, the assessing officer conducted enquiry by issuing notices under section 133(6) of the Act as well as through summons issued under section 131 of the Act to the selling dealer. Ultimately, the assessing officer concluded that the purchases made from Arun Paper & Iron Traders are non genuine. Accordingly, he disallowed the purchases and added back to the income of the assessee. Assessee contested the additions before the first appellate authority. After considering the submissions of the assessee in the context of facts and materials on record, learned Commissioner (Appeals) deleted the addition.

4. The learned Departmental Representative submitted, the assessee having failed to prove the fact that the purchases are from genuine sources, the disallowance made by the assessing officer has to be restored.

5. The learned Counsel for the assessee, on the other hand, strongly relied upon the observations of learned Commissioner (Appeals).

6. We have considered rival submissions and perused materials on record. As could be seen from the observations of the assessing officer in the assessment order, the purchases from Arun Paper & Iron Traders were treated as non genuine basing on the fact that the said entity, in turn, had purchased goods from certain dealers, who were identified as hawala operators by the Sales-tax department. However, it is a fact on record that in course of assessment proceedings, the assessing officer had issued summons to Arun Paper & Iron Traders and in response to the summons issued, the director of the said concern had appeared in person before the assessing officer and had furnished documentary evidences to confirm the sales made by that company to the assessee. It is also a fact on record that not only the assessee had purchased the goods from Arun Paper & Iron Traders but the said selling dealer's name does not appear in the list of hawala operators maintained by the sales-tax department. The allegation against Arun Paper & Iron Traders is only to the extent that it has shown purchases from certain parties, who have been identified as hawala operators. Therefore, when Arun Paper & Iron Traders is not appearing in the list of non genuine dealers maintained by the sales-tax department and the said party has confirmed the sales made to the assessee by appearing before the assessing officer, there is no reason to disallow the purchases made by the assessee. Further, as observed by the learned Commissioner (Appeals), in the assessment proceedings of Arun Paper & Iron Traders, though, source of purchases made was doubted, however, there was no doubt with regard to the sales effected. That's why disallowance on account of alleged non genuine purchases was restricted to

12.5%, being the profit element embedded in such purchases. Thus, from the aforesaid facts, it becomes very much clear that the sales effected by Arun Paper & Iron Traders to the assessee are genuine and free from doubt. That being the case, we do not see any reason to interfere with the decision of learned Commissioner (Appeals) on the issue. Grounds are dismissed.

7. In the result, appeals are dismissed.

Order pronounced on 11/03/2021.

Sd/-

sd/-

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|--------------------------|------------------------|
| <b>(N. K. PRADHAN)</b>   | <b>(SAKTIJIT DEY)</b>  |
| <b>ACCOUNTANT MEMBER</b> | <b>JUDICIAL MEMBER</b> |

Mumbai, Dt : 11/03/2021

Pavanan

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

By Order

Asstt. Registrar, ITAT, Mumbai