

आयकर अपीलिय अधिकरण
मुंबई पीठ "एस एम सी", मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI

श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री नबीन कुमार प्रधान, लेखा सदस्य के समक्ष
BEFORE VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI N.K.PRADHAN, ACCOUNTANT MEMBER

आअसं. 5161/मुं/2019 (नि.व. 2009-10)
ITA NO.5161/MUM/2019(A.Y.2009-10)

Income Tax Officer -20(3)(2),
Piramal Chambers, Lalbaug,
Mumbai 400 012

..... अपीलार्थी /Appellant

बनाम Vs.

M/s. R.K.Singh & Sons,
Plot No.12, Sonapur, Quay Street,
Darukhana, Mumbai 400 010
PAN: AAEFR8413L

..... प्रतिवादी/Respondent

Assessee by : Ms.Radha Halbe
Revenue by : Shri Sanjay J. Sethi

सुनवाई की तिथि/ Date of hearing : 02/03/2021
घोषणा की तिथि/ Date of pronouncement : 08/03/2021

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-32, Mumbai (in short 'the CIT(A)') dated 27/05/2019 for the assessment year 2009-10.

2. Shri Sanjay J. Sethi, representing the Department submitted that the assessee is a reseller of scrap. During the period relevant to assessment year under appeal, the assessee obtained bogus purchase bills aggregating to Rs.1,15,46,063/- from various (seven) hawala operators. The assessment of the assessee for assessment

year 2009-10 was reopened. In reassessment proceedings the assessee failed to prove genuineness of the purchases and the dealers from whom bogus bills were procured. The Assessing Officer made addition of Rs.14,43,258/- by estimating G.P @ 12.5% on bogus purchases. The assessee carried the issue in appeal before CIT(A). The First Appellate Authority granted relief to the assessee by estimating G.P @ 5% and thus, restricted the addition to Rs.5,77,303/-. Against the findings of CIT(A) the Revenue is in appeal before the Tribunal. The Id. Departmental Representative contended that though the tax effect involved in the appeal is less than the monetary limit specified vide CBDT Circular No. 17/2019, dated 08-08-2019 but the case of assessee falls under exception specified in para 10(e) of Circular No. 03 of 2018 dated 11/07/2018 and amended on 20/08/2018.

3. Ms.Radha Halbe, appearing on behalf of the assessee vehemently defended the impugned order and prayed for dismissing the appeal of Revenue. The Id.Authorized Representative of the assessee submitted that the sales declared by assessee has been accepted by the Revenue. The assessee had declared G.P of 4.63% in financial year 2008-09 i.e. the period relevant to assessment year 2009-10. The same has not been disputed by the Revenue. The G.P estimated by the Assessing Officer at 12.5% was very much on the higher side. The CIT(A) after considering the G.P rate declared by the assessee, restricted the addition to 5% and the same has been accepted by the assessee.

4. We have heard the submissions made by rival sides and have perused the orders of authorities below. Undisputedly, the assessee has failed to substantiate the purchases made from suspicious dealers. The sales turnover declared by the assessee was accepted by the Revenue. The Assessing Officer estimated G.P on alleged bogus purchases at 12.5%. In first appellate proceedings, the CIT(A) restricted the addition to 5%. The assessee has declared G.P of 4.63% for the period relevant to the assessment year in appeal. We find the order of CIT(A) well reasoned

and balanced, hence, we concur with the same. The appeal of the Revenue is without any merit, hence, the same is dismissed.

5. In the result, appeal by the Revenue is dismissed.

Order pronounced in the open court on Monday, the 8th day of March, 2021.

Sd/-

(N.K.PRADHAN)

लेखा सदस्य /ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 08/03/2021

Vm, Sr. PS (O/S)

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)

ITAT, Mumbai