

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

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.3699/M/2019  
Assessment Year: 2011-12**

Income Tax Officer 20(2)(5) Room No.208, 2 <sup>nd</sup> Floor, Piramal Chambers, Lalbaug, Parel, Mumbai – 400012	Vs.	Shri Praveen Kumar Gupta, Prop. Haryana Steel International, Shop No.228, Motiwal Mansion, Maulana Azad Road, Mumbai – 400 008 <b>PAN: AACPG3961A</b>
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Ms. Shreekala Pardeshi, D.R.

Date of Hearing : 02.11.2020  
Date of Pronouncement : 14.12.2020

**ORDER**

**Per Rajesh Kumar, Accountant Member:**

The present appeal has been preferred by the Revenue against the order dated 06.03.2019 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2011-12.

2. At the outset we would like to mention that neither assessee nor his authorized representative appeared to attend the hearing. Hence, after hearing the Ld. D.R. and going through the material available on records, we decide this appeal ex-parte.

3. The only issue raised by the Revenue is against the order of Ld. CIT(A) restricting the addition to 4.60% of the alleged bogus purchases.

4. The facts in brief are that assessee filed return of income on 21.09.2011 declaring a total income of Rs.3,47,560/- which was processed under section 143(1) of the Act. Thereafter, the case of the assessee was reopened under section 147 by issuing notice u/s 148 of the Act dated 18.12.2016 after the AO received information from the DGIT (Inv.) Mumbai that assessee has availed bogus purchases entries to the tune of Rs.16,00,59,300/- from M/s. Mairu Enterprises. The assessee filed during the course of assessment proceedings the bills, vouchers and other evidences corroborating the purchases, however, the AO was not satisfied with the genuineness of the purchases as the assessee has failed to prove the genuineness of the purchases as the assessee has failed to prove the genuineness of these purchases by furnishing third party evidences and added a sum of Rs.2,00,07,413/- being 7.5% of the alleged bogus purchases to the income of the assessee by framing the assessment vide order dated 07.11.2016 passed under section 143(3) read with section 147 of the Act.

5. In the appellate proceedings, the Ld. CIT(A) partly allowed the appeal of the assessee by following the decision of the co-ordinate bench of the Tribunal in assessee's own case in A.Y. 2010-11 in ITA No.853/M/2017 wherein a GP rate of 4.6% has been applied thereby sustaining the addition of Rs.73,62,728/- as against Rs.2,00,07,413/- made by the AO. We observe that Ld. CIT(A) has followed the decision of the co-ordinate bench of

the Tribunal in the assessee's own case in A.Y. 2010-11 and therefore ,there is no scope for inference in the order passed by Ld. CIT(A). Consequently, we are inclined to dismiss the appeal of the Revenue by upholding the order of Ld. CIT(A).

6. In the result, the appeal of the Revenue is dismissed.

**Order pronounced in the open court on 14.12.2020.**

**Sd/-  
(Mahavir Singh)  
VICE PRESIDENT**

**Sd/-  
(Rajesh Kumar)  
ACCOUNTANT MEMBER**

Mumbai, Dated: 14.12.2020.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.