

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. 5267/मुं/2019 (नि.व. 2011-12)
ITA NO.5267/MUM/2019(A.Y.2011-12)

Income Tax Officer -19(2)(4),
Room No.217, 2nd Floor,
Matru Mandir, Tardeo,
Mumbai 400 007.

..... अपीलार्थी /Appellant

बनाम Vs.

Mr. Narendra Chowdhary,
Paxal Steel, Shop No.5,
Govind Seksaria Building, 1A, 2nd Khattar Galli,
Thakurdwar Road, Mumbai 400 002.

PAN: AACPC3210E

..... प्रतिवादी/Respondent

Assessee by : None
Revenue by : Shri Sanjay J. Sethi

सुनवाई की तिथि/ Date of hearing : 08/03/2021
घोषणा की तिथि/ Date of pronouncement : 11/03/2021

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-4, Mumbai (in short 'the CIT(A)') dated 07/05/2019 for the assessment year 2011-12.

2. Shri Sanjay J. Sethi representing the Department submitted that the assessee has indulged in obtaining bogus purchase bills aggregating to Rs.95,69,998/- from various (3) hawala operators. Since, the assessee failed to discharge his onus in proving genuineness of the purchases and the dealers, the Assessing Officer held that the purchases are bogus and made addition of Rs.11,96,250/- by estimating G.P @ 12.5% of the total bogus purchases. The Assessing Officer made aforesaid addition in accordance with the decision rendered in the case of Simith P. Sheth, 356 ITR 451(Guj). In first appeal, the CIT(A) reduced the G.P declared by the assessee (5.05%) from the estimated addition of 12.5% made by Assessing Officer. Thus, the effective rate of addition sustained by CIT(A) was 7.45%

3. We have heard the submissions made by Id.Departmental Representative and have examined the orders of authorities below. The assessee is engaged in trading of ferrous and non-ferrous metals. The assessee allegedly made purchases from dealers declared as hawala operators by the Sales Tax Department, Government of Maharashtra. In the absence of any cogent evidences produced by assessee to prove genuineness of the purchases and the dealers, the Assessing Officer estimated profit on bogus purchases at 12.5% and made addition of Rs.11,96,250/-. In first appellate proceedings, the assessee furnished details of G.P ratio in the impugned assessment year and preceding four assessment years. The CIT(A) following the order of Tribunal in assessee's own case in ITA No.1639/Mum/2017 for assessment year 2010-11 reduced the G.P declared by assessee from G.P estimated by the Assessing Officer i.e. 12.5% - 5.05% = 7.45%. We do not find any infirmity in the impugned order. The same is upheld and appeal by the Revenue is dismissed being devoid of merit.

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

Order pronounced in the open court on Thursday the 11th day of March, 2021.

Sd/-

(N.K.PRADHAN)

लेखा सदस्य /ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 11/03/2021

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.

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BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai