

आयकर अपीलीय अधिकरण “एक-सदस्य मामला” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI

माननीय श्री शक्तिजीत दे, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI SAKTIJIT DEY, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.5665/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2009-10)

ITO-19(3)(1) Matru Mandir 2 nd Floor, Room No.202 Tardeo Road, Mumbai – 400 007.	बनाम/ Vs.	Shri Ramesh Dhawalchand Jain 89,2 nd Pathan Street 5 th Kumbharwada Mumbai – 400 004.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.ABVPJ-7944-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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आयकरअपील सं./ I.T.A. No.4512/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2009-10)

Shri Ramesh Dhawalchand Jain 89,2 nd Pathan Street 5 th Kumbharwada Mumbai – 400 004.	बनाम/ Vs.	ITO-19(3)(1) Matru Mandir, 2 nd Floor Room No.202, Tardeo Road Mumbai – 400 007.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.ABVPJ-7944-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Rajiv Khandelwal-Ld. Sr. AR
Revenue by	:	Ms. Smita Verma – Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	22/03/2021
घोषणा की तारीख / Date of Pronouncement	:	05/04/2021

आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. During hearing, it transpires that the subject matter of cross-appeals for Assessment Year (AY) 2009-10 is additions on account of

alleged bogus purchases. The legal grounds as urged by the assessee in the grounds of appeal have not been pressed before us.

2. We have carefully heard the rival arguments and perused relevant material on record. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3. The material facts are that the assessee being resident individual stated to be engaged in trading of metals under proprietorship concern namely M/s Ramesh Steel Coproration was assessed for the year under consideration u/s. 144 r.w.s. 147 on 09/03/2015. The assessment was so framed pursuant to receipt of certain information from investigation wing that the assessee procured bogus purchase bills for Rs.32.30 Lacs from two entities as detailed in the assessment order. Accordingly, notice u/s 148 was issued on 07/03/2014 which remained un-responded to by the assessee. Consequently, the purchases were disallowed and added back to assessee's income while framing the assessment.

4. Before Ld. CIT(A), the assessee filed documentary evidences in support of purchases and submitted that the purchased goods were ultimately sold to various customers. The attention was drawn to the fact that the assessee had reflected gross profit rate of 6% during the year on turnover of Rs.298.22 Lacs.

5. The Ld. CIT(A), after considering assessee's submissions and factual matrix, opined that the assessee miserably failed to lead evidence. Going by the ratio of decision of Hon'ble Gujarat High Court in **Bholanath Polyfabs Pvt. Ltd. (355 ITR 290)** as well as **Simit P.Sheth (356 ITR 451)**, Ld. CIT(A) estimated additions of 12.5% against these purchases. The said adjudication has given rise to cross-appeals before us.

6. Upon careful consideration of factual matrix, we find that the assessee was engaged in trading activity and there could be no sale without actual purchase of goods. The assessee submitted adequate documentary evidences to establish genuineness of purchases to certain extent. However, the purchases could not be proved conclusively and the burden casted upon assessee remained un-discharged. Hence, the factual matrix made it a fit case to make estimated additions in the hands of the assessee, which Ld. CIT(A) has rightly done so. Therefore, we concur with the approach of Ld. CIT(A) in estimating the additions and find no reason to interfere in the impugned order, in this regard.

7. The cross-appeals stands dismissed.

Order pronounced on 5th April, 2021.

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 05.04.2021

Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.