

**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)**

आयकर अपील सं./ I.T.A. No.5569/Mum/2019  
(निर्धारण वर्ष / Assessment Year: 2011-12)

<b>Pragaram J. Patel</b> 67/26, 2 <sup>nd</sup> Floor, Kholsawala Bldg. Dr. M.G. Mahimtura Marg 3 <sup>rd</sup> Kumbharwada Mumbai - 400 004.	<b>बनाम/</b> <b>Vs.</b>	<b>ITO-19(2)(5)</b> Matru Mandir Mumbai – 400 020.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AACPP-1462-B</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	None
<b>Revenue by</b>	:	Ms. Smita Verma – Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	24/03/2021
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	05/04/2021

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. At the time of hearing, none appeared for assessee. However, the material on record was sufficient for disposal of the appeal. The Ld. DR pleaded for dismissal of the appeal. The assessee is aggrieved by confirmation of certain addition on account of alleged bogus purchases vide order dated 20/06/2019 as passed by Ld. Commissioner of Income-Tax (Appeals)-4, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No.CIT(A)-4/ITO-19(2(5)/e-filing-51/2018-19*. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

2.1. The material facts that the assessee being resident individual stated to be engaged in trading of steel was assessed u/s 143(3) r.w.s. 147 on 19/02/2016. The assessment was so framed pursuant to receipt of certain information from Sales Tax Department, Maharashtra that the assessee procured accommodation purchase bills of Rs.159.54 Lacs from 6 entities as detailed in the assessment order. Accordingly, the case was reopened as per law and notice u/s 148 was issued on 21/08/2014 which was followed by statutory notices u/s 143(2) & 142(1) calling for requisite details from assessee to substantiate the purchases so made.

2.2 Though the assessee filed certain documentary evidences in support of purchases, however, Ld. AO formed an opinion that the assessee procured bogus bills without actual delivery of goods. Since the sales were not in doubt, the goods must have been procured from grey market. Therefore, following the ratio laid down by Hon'ble Gujarat High Court in **Simit P.Sheth 356 ITR 451** and **Bholanath Polyfabs Pvt. Ltd. Ltd. 355 ITR 290**, Ld. AO estimated an addition of 12.5% against these purchases.

3. The Ld. CIT(A), after considering assessee's written submissions and factual matrix, upheld the action of Ld. AO. Aggrieved, the assessee is in further appeal before us.

4. Upon perusal of impugned order, we find that Ld. CIT(A) has clinched the issue in the right perspective. The assessee was a trader and there could be no sale without purchase of material. The factual matrix of the case made it a fit case for estimating additions against tainted purchases. The rate of 12.5% as estimated by lower authorities was quite fair & reasonable. The assessee has also raised legal grounds

before us. However, we find no infirmity in reopening the case since Ld. AO was in possession of tangible material which indicated possible escapement of income in the hands of the assessee. Nothing more was required at this stage to reopen the case. Finding no reasons to interfere in the impugned order, in any manner, we dismiss the appeal.

5. The appeal stands dismissed.

*Order pronounced on 5<sup>th</sup> April, 2021.*

**Sd/-**

**(Saktijit Dey)**

न्यायिक सदस्य / **Judicial 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.**