

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

श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष  
BEFORE VIKAS AWASTHY, JUDICIAL MEMBER

आअसं. 2703/मुं/2019 (नि.व. 2007-08)  
ITA NO.2703/MUM/2019 (A.Y.2007-08)

Asst. Commissioner of Income Tax – 23(2),  
1<sup>st</sup> floor, Room no. 114, Matru Mandir,  
Tardeo Road, Mumbai 400 007.

..... अपीलार्थी /Appellant

बनाम Vs.

M/s. KTC Co.  
GE 3040, Bharat Diamond Bourse,  
Bandra Kurla Complex, Bandra (E),  
Mumbai - 400 051.  
PAN : AAGFK4725L

..... प्रतिवादी/Respondent

Assessee by : None

Revenue by : Shri Sushil Kumar Mishra

सुनवाई की तिथि/ Date of hearing : 31/12/2020

घोषणा की तिथि/ Date of pronouncement : 26/03/2021

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-33, Mumbai (in short 'the CIT(A)') dated 07/02/2019 for the assessment year 2007-08.

2. Shri Sushil Kumar Mishra representing the Department submitted that the assessee is engaged in diamond business. On the basis of information received from DGIT(Invn.), Mumbai that the assessee has indulged in obtaining accommodation

entries to the tune of Rs.89,36,609/- during the period relevant to assessment year under appeal, the assessment was reopened. The assessee has taken the benefit of accommodation entries from M/s. Mohit International, a company controlled by Praveen Kumar Jain, a declared hawala operator. The assessee failed to produce documents to substantiate genuineness of the transactions. The Assessing Officer made addition of 12.5% of non-genuine transactions. The assessee carried the issue in first appeal before the CIT(A), who has reduced the addition to 8% of total bogus purchases. The Id. Departmental Representative submitted that the Assessing Officer has been quite considerate in making the addition @ 12.5% of bogus purchases. The addition was made by the Assessing Officer in accordance with the judgment of Hon'ble Gujarat High Court in the case Bholanath Polyfab Pvt. Ltd., 40 Taxman 494. The Id. Departmental Representative prayed for reversing the findings of CIT(A) and sustaining the addition made in assessment order.

3. Submissions made by Id. Departmental Representative heard, orders of authorities below examined. The Revenue in appeal has raised solitary ground assailing the findings of CIT(A) in restricting the addition on account of bogus purchases to 8% of such purchases. The assessee has allegedly obtained accommodation entries amounting to Rs.89,36,609/- from M/s. Mohit International. During assessment proceedings, the assessee produced ledger accounts, invoices, copy of bank statements reflecting payments made, etc. However, the assessee neither produced the supplier nor any confirmation from the suppliers. Further, the assessee failed to discharge its onus in proving trail of goods. The profit element embedded in such like transactions has to be brought to tax. The Assessing Officer made addition of Rs.11,17,076/- by estimating GP on bogus transactions @ 12.5%. In first appeal, the CIT(A) after taking cognizance of G.P ratio declared by the assessee at 5.36% restricted the addition to 8% of the bogus purchases. In my considered opinion, keeping in view the business of assessee GP estimated by the Assessing

Officer is on higher side. I find no infirmity in the impugned order, hence, the same is upheld and the appeal of Revenue is dismissed being devoid of merit.

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

Order pronounced in the open court on Friday the 26<sup>th</sup> day of March, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated 26/03/2021

Vm, Sr. PS (O/S)

प्रतिलिपि अग्रेषित Copy 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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**