

आयकर अपीलीय अधिकरण “एच” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“H” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.7114/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2009-10)

DCIT-14(3)(2) R.No.455, 4 th Floor Aaykar Bhawan, M.K.Road Mumbai – 400 020	बनाम/ Vs.	SECO Warwick Allied Pvt. Ltd. 5 th Floor, Amfotech I.T.Work Road No.8, Wagle Industrial MIDC Thane - 400604
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAACA-8938-Q		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri Gurbinder Singh-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	20/04/2021
घोषणा की तारीख / Date of Pronouncement	:	03/05/2021

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment year [AY in short] 2009-10 contest the order of Ld. Commissioner of Income Tax (Appeals)-22, Mumbai [in short CIT(A)] which has provided certain relief to the assessee on account of *alleged bogus purchases*.
2. Though none appeared for assessee, however, material on record was sufficient for disposal of the appeal. The Ld. DR pleaded for restoration of assessment framed by Ld. AO.

3.1 The material facts are that the assessee being resident corporate assessee stated to be engaged in manufacturing of furnaces was assessed for the year under consideration u/s 143(3) r.w.s. 147. The original return filed by the assessee was processed u/s 143(1). However, pursuant to receipt of certain information from Sales Tax Department, Mumbai, it transpired that the assessee made alleged bogus purchases of Rs.14.69 Lacs from an entity namely M/s Mihir Sales Private Limited. Accordingly, the case was reopened as per due process of law and the assessee was required to file requisite details to substantiate the purchases.

3.2 The assessee submitted that it did not purchase any good from the tainted party but made purchases of same amount from another entity namely M/s Saffron Stainless. To substantiate the purchases made from this entity, the assessee filed certain documentary evidences in the shape of ledger extracts, purchase invoices, bank statements evidencing payment through banking channels. However, as per Sales Tax Department, M/s Saffron Stainless was also designated as bogus trader who indulged in providing accommodation entries to various beneficiaries. The assessee also failed to file stock statement. Consequently, the aforesaid purchases were treated as bogus purchases and added to the income of the assessee.

4. Upon further appeal, Ld. CIT(A), opined that since sales transactions were not disputed by Ld. AO, entire purchases could not be disallowed. Relying upon the decision of Hon'ble Gujarat High Court in **CIT V/s Simit P.Sheth (356 ITR 451)**, Ld. CIT(A) estimated the additions of 12.5% against these purchases. Aggrieved, the revenue is in further appeal before us.

5. Going by the factual matrix as enumerated in the orders of lower authorities, we find that the issue has rightly been clinched in proper perspective by Ld. CIT(A). The Sales Turnover was not in doubt and the assessee was in possession of primary purchase documents. The payment to the supplier was through banking channels. There could be no sale without actual purchase of material keeping in view the assessee's nature of business. The facts of the case made it a fit case to estimate the profit element embedded in these transactions. Therefore, concurring with findings of Ld. CIT(A) in the impugned order, we dismiss the appeal.

6. The appeal stands dismissed.

Order pronounced on 3rd may, 2021.

Sd/-

(Mahavir Singh)

उपाध्यक्ष / Vice President

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 03.05.2021
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.**