

IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI

BEFORE SHRI PRAMOD KUMAR (VICE PRESIDENT)
AND
SHRI SAKTIJIT DEY (JUDICIAL MEMBER)

I.T.A. No.6216/Mum/2019
(Assessment year 2011-12)

ITO-28(2)(3), Mumbai	vs	Nathu Dagdu Dahibhate A-303, Maa Annapurna CHS Sector-2, Airoli, Navi Mumbai PAN : AERPD6502R
APPELLANT		RESPONDENT

Appellant by	Shri Tharian Oommen, Sr DR
Respondent by	None

Date of hearing	30-03-2021
Date of pronouncement	03-05-2021

ORDER

Per Saktijit Dey (JM):

This is an appeal by the revenue against order dated 26-07-2019 of learned Commissioner of Income-tax (Appeals)-26, Mumbai for the assessment year 2011-12.

2. When the appeal was called for hearing, no one was present for the assessee. Considering the nature of dispute, we proceed to dispose of the appeal ex parte qua the assessee, after hearing the learned Departmental Representative and on the basis of material available on record.

3. The dispute in the present appeal is confined to the partial relief granted by the learned Commissioner of Income-tax (Appeals) in the matter of addition made on account of non-genuine purchases.

4. Briefly the facts are, the assessee is an individual and is stated to be engaged in the business of manufacturing of control panels through his proprietary concern, M/s Classic Electricals. For the assessment year under dispute, assessee had filed his return of income on 30-09-2011 declaring total income of Rs.3,05,660/-. Subsequently, the assessing officer received information from the Sales-tax Department, Government of Maharashtra through the DGIT (Inv), Mumbai that purchases worth Rs.20,48,435/- claimed to have been made during the year from four parties are non-genuine, as, the concerned selling dealers were identified as hawala operators providing accommodation bills. On the basis of such information, assessing officer reopened the assessment under section 147 of the Income Tax Act, 1961. In course of assessment proceedings, assessing officer called upon the assessee to prove the genuineness of the transactions through supporting evidence. In response to the query made, the assessee furnished audited financial statement, ledger copies of the concerned selling dealer, etc. However, as alleged by the assessing officer, the assessee did not submit details of goods purchased, stock register, sales register, bank account statements, etc. Further, as observed by the assessing officer, notices issued under section 133(6) of the Act to the concerned selling dealers returned back unserved. Thus, ultimately, the assessing officer concluded that the purchases are non-genuine and accordingly, added back to the income of the assessee. Assessee contested the aforesaid addition before the first appellate authority. After considering the submissions of the assessee in the context of facts and

materials on record, learned Commissioner of Income-tax (Appeals) restricted the disallowance to 12.5% of the alleged non genuine purchases.

5. We have considered the submissions of learned Departmental Representative and perused materials on record. As rightly observed by learned Commissioner of Income-tax (Appeals), the sales shown by the assessee have not been doubted by the assessing officer. That being the case, the logical conclusion would be, in absence of the disputed purchases corresponding sales could not have been made. Therefore, the doubt, if any, is only with regard to the source of purchases. In the aforesaid scenario, it can be concluded that the assessee might have purchased the goods from unverified sources, thereby, suppressing its true profits. In such circumstances, only the profit element embedded in such unverified purchases can be considered for addition. In the instant case, learned Commissioner of Income-tax (Appeals) has exactly done so. Insofar as estimation of profit element at 12.5%, in our view, it is fair and reasonable and is in conformity with the decisions of the higher appellate authorities including Tribunal in similar matters.

6. In view of the aforesaid, we uphold the decision of learned Commissioner of Income-tax (Appeals) on the issue. Grounds raised are allowed.

9. In the result, appeal is dismissed.

Order pronounced on 03/05/2021.

Sd/-

sd/-

(PRAMOD KUMAR)	(SAKTIJIT DEY)
VICE PRESIDENT	JUDICIAL MEMBER

Mumbai, Dt : 03/05/2021

Pavanan

Copy to :

1. Appellant
2. Respondent
3. The CIT concerned
4. The CIT(A)
5. The DR, ITAT, Mumbai
6. Guard File

By Order

Asstt. Registrar, ITAT, Mumbai