

आयकर अपीलीय 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 SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 4529/मुं/2019 (नि.व.2009-10)
ITA NO.4529/MUM/2019 (A.Y.2009-10)

Income Tax Officer-19(3)(1),
Room No.202, 2nd Floor,
Matru Mandir, Tardeo Road,
Mumbai 400 007

..... अपीलार्थी /Appellant

बनाम Vs.

Ramesh D. Jain (HUF),
Shop No. 3, 56/64 Nanubhai Desai Road
C.P. Tank, Mumbai 400 004
PAN: **AAFHR 4464J**

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Sanjay J. Sethi

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 06/01/2021

घोषणा की तिथि/ Date of pronouncement : 05/04/2021

आदेश/ ORDER

This Appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals) -6, Mumbai [in short 'the CIT(A)] dated 26/04/2019 for the assessment year 2009-10.

2. Shri Sanjay J. Sethi representing the Department submitted that the assessee had indulged in obtaining bogus purchase bills amounting to

Rs.45,80,827/- from various hawala dealers. During assessment proceedings notice under section. 133(6) of the Income Tax Act, 1961 (in short 'the Act') were issued to the dealers on the addresses provided by the assessee/respondent, the same were returned back unserved by the postal authorities. No confirmations were either filed by the assessee from the said dealers. The assessee failed to prove genuineness of purchases and the dealers. The Assessing Officer made addition of 25% of the bogus purchases. In first appellate proceedings, the CIT(A) restricted the addition to 12.5% of such purchases. The Id. Departmental Representative submitted that the addition made by the Assessing Officer in respect of bogus purchases was fair and should have been sustained by the CIT(A). The Id. Departmental Representative prayed for reversing the findings of CIT(A) and restoring the addition made in assessment proceedings.

3. The submissions made by Id. Departmental Representative heard, orders of authorities below examined. The assessee is a dealer in ferrous and non-ferrous metals. The assessee has allegedly made bogus purchases aggregating to Rs.45,80,827/- from five dealers declared as hawala operators by the Sales Tax Department, Government of Maharashtra. Undisputedly, the assessee failed to discharge his onus in proving genuineness of purchases and authenticity of the dealers. The Assessing Officer made addition of Rs.11,45,207/- by estimating 25% profit embedded in bogus purchases. The CIT(A) restricted G.P. at 12.5% on bogus purchases. Keeping in view the nature of assessee's business, estimation of profit on bogus purchases by the Assessing Officer was on higher side. I find no merit in appeal by the Revenue,

hence, the impugned order is upheld and the appeal by Revenue is dismissed, sans merit.

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

Order pronounced in the open Court on Monday , the 05th day of April, 2021

Sd./-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 05/04/2021
Vm, Sr. PS (O/S)

प्रतिलिपि अग्रेषितCopy 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