

आयकर अपीलीय अधिकरण " ए " न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI

माननीय श्री छल्ला नागेन्द्र प्रसाद, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI C.N. PRASAD, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.6560/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2010-11)

ACIT-Circle 6(1)(1) 522, 5 th Floor Aaykar Bhawan, M.K.Road Mumbai 400 020	बनाम/ Vs.	M/s Anika Apparels Private Ltd. 101, Amir Industrial Estate Sun Mill Compound, Lower Parel Mumbai – 400 013
PAN No. : AAFCA-3169-E		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri Brajendra Kumar – Ld. Sr. DR

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

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment year [AY in short] 2010-11 contest the order of Ld. Commissioner of Income Tax (Appeals)-12, 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 garments was assessed for the year under consideration u/s 143(3) r.w.s. 147 on 18/03/2016. The original return filed by 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.5.19 Lacs from three entities as detailed in the assessment order. Accordingly, the case was reopened as per due process of law and the assessee was required to file requisite detail to substantiate the purchases.

3.2 In support of purchases, the assessee furnished copies of purchase bills, ledger accounts, and bank statements evidencing payment through banking channels. However, notices issued u/s 133(6) did not elicit satisfactory response. The Ld. AO, after considering entire factual matrix as well as in the background of various judicial pronouncements, opined that profit element embedded in such purchases was to be disallowed. The estimation was made @12.5% which resulted into an addition of Rs.0.64 Lacs in the hands of the assessee.

4. Before Ld. CIT(A), the assessee submitted that the purchased material was used in the manufacturing of garments. These were consumable items which attracted VAT rate of 5%. Further, similar additions made in AY 2009-10 were already deleted by learned first appellate authority. The Ld. CIT(A), after due consideration of

assessee's submissions as well as material on record, reduced the estimation to 5%. 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 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. The Ld. CIT(A), after due consideration of assessee's submissions as well as material on record, estimated the additions @5%. Keeping in view the fact that the purchased items attracted VAT rate of 5%, the said estimation could not be termed as unjustified, in any manner. Therefore, finding no reason to interfere in the impugned order, we dismiss the appeal.

6. The appeal stands dismissed.

Order pronounced on 03rd May, 2021.

Sd/-

(C.N. Prasad)

न्यायिक सदस्य / **Judicial Member**

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.