

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 SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 7097/मुं/2019 (नि.व.2009-10)
ITA NO.7097/MUM/2019 (A.Y.2009-10)

ITO-17(2)(4),

R. No. 112, Kautalya Bhavan,
Bandra Kurla Complex,
Vashi Railway Complex,
Navi Mumbai- 400051

..... अपीलार्थी /Appellant

बनाम Vs.

M/s Nafisa Engineering Works,
George Chempakathenal,
412, 4th Floor, Doshi Chamber,
Poona Street, Nandlal Jani Road,
Dana Bunder, Mumbai-400009.

PAN: AAGFN6149R

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Ms. Smita Verma

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 05/05/2021

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

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-58, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 09.08.2019 for the Assessment Year (AY) 2009-10.

2. The brief facts of the case as emanating from the records are: The assessee is engaged in manufacturing of truck & trolley. On the basis of

information received from DGIT (Investigation), Mumbai, the assessment in the case of assessee was re-opened. As per the information received, the assessee allegedly obtained bogus purchase bills from following parties:

(i)	Asian Steel	Rs. 1,71,860/-
(ii)	Maruti Steel Traders	<u>Rs. 53,274/-</u>

Total Rs. 2,25,134/-

3. The assessee failed to produce the dealers from whom goods were purchased and the trail of goods. The AO held the abovesaid purchases to be non-genuine and made addition of the entire bogus purchases. The assessee filed appeal against the assessment order dated 04.03.2015 passed under section 147 read with section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') assailing addition of entire bogus purchases. The CIT(A) after examining the facts restricted the addition to 25% of such purchases. Hence, the present appeal by Revenue.

4. Ms. Smita Verma representing the Department vehemently defending the assessment order submitted that the CIT(A) without properly appreciating the facts has restricted the addition to 25% of the total bogus purchases. The assessee has failed to discharge his onus in proving genuineness of the purchases and the dealers. The Id. DR prayed for reversing the findings of CIT(A) and confirming 100% addition on account of bogus purchases.

5. Submissions made by Id. DR heard, orders of authorities below examined. Undisputedly the assessee has failed to prove authenticity of the dealers and genuineness of the purchases. However, the sales turnover declared by the assessee has not been disputed by the AO. Without purchases/inputs there

cannot be sales/manufacturing. The Hon'ble Bombay High Court in the case of PCIT vs. Paramshakti Distributors Pvt. Ltd. in ITA No. 413 of 2017 decided on 15.07.2019 has held that entire bogus purchases cannot be added, it is the profit embedded in such purchases that has to be added. The CIT(A) has estimated profit element in bogus purchases at 25% and has restricted the addition to Rs. 56,234/-. I find no infirmity in the impugned order, the same is upheld and the appeal of Revenue is dismissed.

6. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on **Wednesday**, the 5th day of May, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 05/05/2021

SK, PS

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.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)
ITAT, Mumbai