

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. 5665/मुं/2019 (नि.व.2011-12)  
ITA NO.5665/MUM/2019 (A.Y.2011-12)

ITO-25(3)(3),  
R. No. 233, 2<sup>nd</sup>Floor,  
Kautilya Bhawan,  
Bandra Kurla Complex,  
Bandra (E), Mumbai-400051

..... अपीलार्थी /Appellant

बनाम Vs.

Ramesh Madhavji Doshi,  
402, Casablanca, M.G.Road,  
Opp. Shaan Talkies, Vile Parle (E),  
Mumbai-400059.

**PAN: AABPD8633M**

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Sushil Kumar Mishra  
प्रतिवादी द्वारा/Respondent by : None  
सुनवाई की तिथि/ Date of hearing : 30/03/2021  
घोषणा की तिथि/ Date of pronouncement : 28/05/2021

आदेश/ ORDER

**PER VIKAS AWASTHY, J.M:**

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-53, Mumbai [hereinafter referred to as 'the CIT(A)'] ' dated 14.06.2019 for the Assessment Year (AY) 2011-12.

2. The brief facts of the case as emanating from records are: The assessee is engaged in manufacturing and trading in Iron & Steel. On the basis of information

received from the Sales Tax Department, Government of Maharashtra, the assessment in the case of assessee for AY 2011-12 was re-opened. As per information received, the assessee had obtained bogus purchase bills amounting to Rs. 39,69,888/- from M/s Jindutt Steel, a declared hawala operator by the Sales Tax Department, Government of Maharashtra. During assessment proceedings, the assessee could not prove genuineness of the dealers and the trail of goods. No stock register, lorry receipt, etc. were furnished by the assessee. The AO accepted the sales and estimated Gross Profit (GP) on bogus purchases @ 25%. Thus, the AO made addition of Rs. 9,92,472/- on account of bogus purchase transactions.

Aggrieved by the assessment order dated 17.03.2016 passed under section 143(3) read with section 147 of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'], the assessee filed appeal before the CIT(A). In first appellate proceedings, the CIT(A) restricted the disallowance on bogus purchase by estimating GP at 12.5%. Hence, the present appeal by the Revenue.

3. Shri Sushil Kuamr Mishra representing the Department vehemently defended the assessment order and prayed for reversing the findings of CIT(A).

4. Submissions made by Id. DR heard, orders of authorities below examined. Undisputedly, the assessee failed to prove genuineness of the purchases and the dealers. At the same time, the AO accepted the sales declared by the assessee. The AO estimated GP on bogus purchases at 25%. In first appeal the CIT(A) restricted the same to 12.5%. I am of considered view that disallowance made by the AO in respect of bogus purchase was on the higher side. The GP estimated at 12.5% by the CIT(A) is reasonable and the same has been accepted by the

assessee. I see no reason to interfere with the findings of CIT(A). Therefore, the impugned order is upheld and the appeal of Revenue is dismissed.

Order pronounced in the open court on **Friday**, the **28<sup>th</sup>** day of May, 2021.

Sd/-  
(VIKAS AWASTHY)  
न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 28/05/2021

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**