

**आयकर अपीलीय अधिकरण “एक-सदस्य मामला ” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, MUMBAI**

**माननीय श्री विकास अवस्थी, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI VIKAS AWASTHY, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
(Hearing through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.8020/Mum/2019  
(निर्धारण वर्ष / Assessment Year: 2010-11)

<b>ITO-23(1)(4)</b> 109, FF, Matru Mandir, Tardeo Road Mumbai-400 007	<b>बनाम/</b> Vs.	<b>Dewan Exports India</b> 618, Sagar Tech Plaza Andheri Kurla Road, Saki Naka, Andheri (East), Mumbai- 400 072
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. <b>AAAFD-3593-R</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	None
<b>Revenue by</b>	:	Shri Sanjay J. Sethi– Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	07/06/2021
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	07/06/2021

**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)-32, Mumbai [in short CIT(A) ] dated 14/10/2019 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 firm stated to be engaged as dealer of gifts & novelties was assessed for the year under consideration u/s 143(3) r.w.s. 147 on 30/03/2015. The original return filed by assessee was processed u/s 143(1). However, pursuant to receipt of certain information from DGIT (Inv.) / Sales Tax Department, Mumbai, it transpired that the assessee made alleged bogus purchases of Rs.16.80 Lacs from the entity namely M/s Amar Enterprises. Accordingly, the case was reopened as per due process of law and the assessee was required to file requisite details to substantiate the purchases.

3.2 In support of purchases, the assessee furnished certain documents and submitted that the payments were made to the supplier through banking channels. However, in response to notice u/s 133(6), M/s Amar Enterprises denied having carried out any transaction with the assessee. The same led Ld. AO to disbelieve the genuineness of the stated transactions. Finally, these purchases were disallowed and added back to the income of the assessee.

4. The Ld. CIT(A) noted that the opportunity of cross-examine the supplier was not provided to the assessee. Further, Ld. AO did not disturb the corresponding sales made by the assessee. Therefore, it could be presumed that the goods were purchased from grey market but the bills were procured from the said supplier. Finally, the additions were restricted to the extent of 13% of these purchases. 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 suppliers 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 @13% which is more than enough to take care of the leakage of revenue. Therefore, the estimation could not be termed as unjustified, in any manner. Finding no reason to interfere in the impugned order, we dismiss the appeal.

6. The appeal stands dismissed.

*Order pronounced on 07<sup>th</sup> June, 2021.*

**Sd/-**

**(Vikas Awasthy)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 07/06/2021  
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.**