

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.7967/Mum/2019
 (निर्धारण वर्ष / Assessment Year: 2009-10)

Shri Ratankumar Singhania 20, Suyog Industrial Estate LBS Marg, Vikhroli (W) Mumbai-400 083	बनाम/ Vs.	ITO-29(3)(1) Kautilya Bhawan, BKC Bandra East Mumbai-400 057
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AAHPS-6826-R		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)
अपीलार्थीकी ओरसे/ Appellant by	:	None
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri Sanjay Sethi-Ld.DR
सुनवाईकी तारीख/ Date of Hearing	:	08/06/2021
घोषणाकी तारीख / Date of Pronouncement	:	08/06/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member): -

1. The assessee challenges the order of Ld. Commissioner of Income Tax (Appeals)-40, Mumbai [CIT(A)] dated 23/10/2019 which has confirmed addition of 12.5% on account of alleged bogus purchases as made by Ld. AO while framing an assessment u/s 143(3) r.w.s. 147 on 19/02/2015. The assessee also challenges the reassessment proceedings on legal grounds.

2. Though none appeared for assessee, however, material on record was sufficient for disposal of the appeal. The Ld. DR pleaded for dismissal of the appeal.

3.1 The material facts are that the assessee being resident individual stated to be engaged in manufacturing of tools & dyes was assessed for the year under consideration u/s 143(3) r.w.s. 147 of the Act on 19/02/2015. The original return filed by the assessee was processed u/s 143(1) of the Act. However, pursuant to receipt of certain information from DGIT (Inv.) / Sales Tax Department, Mumbai, it transpired that the assessee procured accommodation purchase bills of Rs.63.66 Lacs from seventeen 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 details to substantiate the purchases.

3.2 In support, the assessee filed documentary evidences in the shape of copies of purchase bills, ledger extracts, and bank statement evidencing payment to the supplier through banking channels. However, it failed to produce any of the suppliers for confirmation of account. The Ld. AO, relying upon the decision of Hon'ble Gujarat High Court in **CIT V/s Simit P.Sheth (2012; 356 ITR 451)**, estimated addition 12.5% against these purchases. The action of Ld. AO, upon confirmation by Ld. CIT(A), is in further challenge before us.

4. Going by the factual matrix as enumerated in the orders of lower authorities, we find that the assessee's 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. At the same time, the assessee could not produce even single supplier to confirm the transactions. The facts of the case made it a fit case to estimate the profit element embedded in these transactions. Both the lower authorities, after due consideration of assessee's submissions as well as material on record, estimated the additions @12.5% which is quite fair to plug 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.

5. So far as the legal grounds are concerned, we find that the original return was processed u/s 143(1) and Ld. AO was in possession of tangible material so as to reopen the case of the assessee. The said material indicated possible escapement of income in the hands of the assessee. Nothing more was required at this stage. Therefore, no infirmity could be found in the jurisdiction of Ld. AO.

6. The appeal stands dismissed.

Order pronounced on 08th June, 2021.

Sd/-

(Vikas Awasthy)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 08/06/2021
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.**