

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.5804/Mum/2019
 (निर्धारण वर्ष / Assessment Year: 2011-12)

ITO-32(3)(1) Room No.733, 7 th Floor Kautilya Bhawan, BKC Bandra(E), Mumbai - 400051	बनाम/ Vs.	Shri Raghu V.Menon A-401, Raj Utsav Shiv Vallabh Road, Ashok Van Dahisar (E), Mumbai-400 068
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AFTPM-6863-K		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)
अपीलार्थीकी ओरसे/ Appellant by	:	Shri Sanjay Sethi-Ld.DR
प्रत्यर्थीकी ओरसे/ Respondent by	:	None
सुनवाईकी तारीख/ Date of Hearing	:	09/06/2021
घोषणाकी तारीख / Date of Pronouncement	:	09/06/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member): -

1. Aforesaid appeal by revenue for Assessment year [AY in short] 2011-12 contest the order of Ld. Commissioner of Income Tax (Appeals)-46, Mumbai [in short CIT(A)] dated 11/06/2019 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 individual stated to be engaged in steel fabrication was assessed for the year under consideration u/s 143(3) r.w.s. 147 on 11/12/2015. 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.6.55 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 details to substantiate these purchases.

3.2 In support of purchases, the assessee furnished certain documents, however, notices issued u/s 133(6) did not elicit satisfactory response. Consequently, Ld. AO estimated an addition of 22% against these purchases.

4. The Ld. CIT(A), considering the appellate orders of earlier years, restricted the addition to 12.5%. 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 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. 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 appellate orders of earlier years, estimated the additions @12.5% 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 09th June, 2021.

Sd/-

(Vikas Awasthy)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 09/06/2021
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.