

आयकर अपीलीय अधिकरण “डी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

1. आयकर अपील सं./ I.T.A. No.7890/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2010-11)

ITO 32(1)(6), R. No. 703, 7 th floor Kautilya Bhavan, BKC Bandra East, Mumbai-400 051	बनाम/ Vs.	Rajesh Hirachand Desai B-15, Baidyanath Dham 3 rd floor, TPS-III, R. No. 05, Vazira Naka, Borivali West, Mumbai-400 092
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AABPD-1684-L		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Ms. Ruchi Rathod, Ld. AR
Revenue by	:	Shri Bharat Andhale, Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	01/06/2021
घोषणा की तारीख / Date of Pronouncement	:	01/06/2021

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)-46, Mumbai [in short CIT(A)] dated 10/10/2019 which has provided certain relief to the assessee on account of *alleged bogus purchases*.

2. After going through rival submissions, our adjudication to the appeal would be as given in succeeding paragraphs.

3.1 The material facts are that the assessee being resident individual stated to be engaged in trading of iron & steel was assessed for the year under consideration u/s 143(3) r.w.s. 147 on 27/03/2015. 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.96.57 Lacs from five 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 of purchases, the assessee furnished copies of purchase bills etc. However, notices issued u/s 133(6) did not elicit satisfactory response. The assessee could not produce any of the suppliers for confirmation of transactions. The Ld. AO, after considering entire factual matrix as well as in the background of various judicial pronouncements, estimated disallowance of 15% against these purchases which resulted into an addition of Rs.14.48 Lacs in the hands of the assessee.

4. The Ld. CIT(A), inter-alia, considering catena of judicial decisions including the decision of Hon'ble Gujarat High Court in **Simit P.Sheth V/s CIT (2012; 356 ITR 451)**, restricted the additions to 12.5% and granted partial relief. 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 @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 01st June, 2021.

Sd/-

(Mahavir Singh)

उपाध्यक्ष / **Vice President**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 01/06/2021
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.