

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)

आयकरअपील सं./ I.T.A. No.193/Mum/2020
 (निर्धारण वर्ष / Assessment Year: 2009-10)

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आयकरअपील सं./ I.T.A. No.194/Mum/2020
 (निर्धारण वर्ष / Assessment Year: 2010-11)

Income Tax Officer-26(2)(7) Room No.416, 4 th Floor Kautilya Bhavan, G-Block Bandra Kurla Complex Bandra (East), Mumbai-400 051.	बनाम/ Vs.	Smt. Nirmala Tukaram Botre 3/1, Vivek Niwas, Sai Baug Village Road, Bhandup (W) Mumbai-400 078
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AEDPB-3550-M		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Sanjay J. Sethi-Ld.DR
प्रत्यर्थीकीओरसे/ Respondent by	:	None

सुनवाईकीतारीख/ Date of Hearing	:	14/06/2021
घोषणाकीतारीख / Date of Pronouncement	:	14/06/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member): -

1. Aforesaid appeal by revenue for Assessment Year (AY) 2009-10 & 2010-11 contest separate orders of learned first appellate authority. However, the facts as well as issue is quite identical in both the years and

therefore, the appeals are being disposed-off by way of this common order for the sake of convenience & brevity. The learned CIT(A) has provided certain relief to the assessee on account of *alleged bogus purchases*. Aggrieved, the revenue is in further appeal before us whereas it appears that the assessee has accepted the verdict of learned first appellate authority.

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 in AY 2009-10 are that the assessee being resident individual stated to be engaged in manufacturing of chemicals etc. was assessed for the year under consideration u/s 143(3) r.w.s. 147 on 07/08/2014. The original return was processed u/s 143(1). Pursuant to receipt of certain information from DGIT (Inv.) / Sales Tax Department, Mumbai, it transpired that the assessee made alleged bogus purchases of Rs.20.29 Lacs from two entities as detailed in the assessment order. Accordingly, the case was reopened as per due process of law and the assessee was directed to substantiate these purchases.

3.2 Though the assessee filed certain documents, however, the assessee, in the opinion of Ld. AO, could not substantiate the delivery of material. Accordingly the aforesaid purchases were added back to the income of the assessee u/s 69C.

4. The assessee assailed the impugned additions, inter-alia, by submitting that the payment to the suppliers was through banking channels and the source of payment was explained. The Ld. CIT(A) concurred that

there could not be corresponding sales without purchase of material and therefore, Ld. AO was directed to estimate the additions @12.5% against 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 assessee's Sales Turnover was not in doubt and 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, 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 facts are similar in AY 2010-11 wherein Ld. AO disallowed purchases of Rs.22.71 Lacs. The Ld. CIT(A) restricted the additions to 12.5% of these purchases. Aggrieved, the revenue is in further appeal before us. Facts being pari-materia the same as in AY 2009-10, taking the same view, we dismiss the appeal.

7. Both the appeals stands dismissed.

Order pronounced on 14th June, 2021.

Sd/-

(Vikas Awasthy)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 14/06/2021

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.