

आयकरअपीलीयअधिकरण "एक-सदस्यमामला" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

माननीय श्री विकास अवस्थी, न्यायिक सदस्य एवं
माननीय श्री मनोजकुमार अग्रवाल, लेखासदस्य के समक्ष।
BEFORE HON'BLE SHRI VIKAS AWASTHY, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing through video conferencing mode)

आयकरअपीलसं./ I.T.A. No.104/Mum/2020
(निर्धारणवर्ष / Assessment Year: 2010-11)

Om BSA Enterprises 3036, Bhandup Indl. Estate Pannalal Compound, LBS Marg Bhandup (W), Mumbai-400 078	बनाम/ Vs.	Income tax Officer-26(2)(6) Kautilya Bhavan, 4 th Floor Room No.416, Bandra Kurla Complex Bandra (E), Mumbai-400 051
स्थायीलेखासं./जीआइआरसं./ PAN/GIR No. AAAFO-1136-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Sanjay Vora-Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Sanjay J. Sethi-Ld. DR

सुनवाईकीतारीख/ Date of Hearing	:	15/06/2021
घोषणाकीतारीख / Date of Pronouncement	:	15/06/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member):-

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as 'AY'] 2010-11 contest the order of Ld. Commissioner of Income-Tax (Appeals)-40, Mumbai, [CIT(A)], dated 23/10/2019 which has confirmed certain additions on account of unproved purchases as made by Ld. AO while framing assessment on 22/03/2013.

2. The Ld. AR submitted that the appellate order has not considered the outcome of remand proceedings wherein the assessee substantiated these purchase to a great extent. In the alternative, Ld. AR pleaded for certain estimation considering the factual matrix and keeping in mind the assessee's nature of business. The Ld. DR, on the other hand, pleaded for dismissal of the appeal.

3. The material facts are that the assessee being resident firm stated to be engaged as manufacturer of engineering goods was assessed for the year under consideration u/s 143(3) on 22/03/2013. During assessment proceedings, to verify the purchases made by the assessee, notices were issued to seven parties u/s 133(6) as detailed in para-4 of the assessment order. However, the same were returned back by the postal authorities. The assessee could produce only two suppliers. However, it was submitted that the purchases were genuine and the payments were through banking channels. Rejecting the same, Ld. AO made aggregate addition of Rs.22.90 Lacs with respect to 4 entities.

4. Though the assessee preferred further appeal, however, the appeal was disposed-off by Ld. CIT(A) ex-parte qua the assessee on 23/10/2019 wherein the additions so made by Ld. AO were confirmed. From the impugned order, it is quite evident that the order has not considered the outcome of remand proceedings. Aggrieved, the assessee is in further appeal before us.

5. From the material on record, we find that the assessee, vide letter dated 26/09/2018 has filed confirmation of accounts from 4 parties under consideration. The ledger extracts as placed on

record would reveal that the assessee has made the payment to these parties through banking channels. Going by the factual matrix, it is evident that assessee's sales turnover was not in doubt. 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. Therefore, as pleaded by Ld. AR and to put an end to litigation, we estimate the additions against these purchases @8% which comes to Rs.1,83,266/-. The balance additions stand deleted. The Ld. AO is directed to recompute assessee's income in terms of our above order.

6. The appeal stands partly allowed.

Order pronounced on 15th June, 2021.

Sd/-
(Vikas Awasthy)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 15/06/2021
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.