

**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)

आयकरअपीलसं./ I.T.A. No.05/Mum/2020  
(निर्धारणवर्ष / Assessment Year: 2009-10)

<b>ACIT-28(1)</b> Room No.306, 3 <sup>rd</sup> Floor, 6 <sup>th</sup> Tower Vashi Railway Station Complex, Vashi Navi Mumbai-400 703	<b>बनाम/</b> Vs.	<b>Bijoy Devassy Thoppil</b> A-702, Meridian Apts. Sector-6, Nerul Navi Mumbai-400 702
<b>स्थायीलेखासं./जीआइआरसं./ PAN/GIR No. ACRP-5663-R</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri Sanjay J. Sethi-Ld. DR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Dr. P. Daniel-Ld. AR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	15/06/2021
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	15/06/2021

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member):-**

1. Aforesaid appeal by revenue for Assessment year (AY) 2009-10 contest the order of Ld. Commissioner of Income Tax (Appeals)-26, Mumbai [in short CIT(A) ] dated 22/10/2019 which has provided certain relief to the assessee on account of *alleged bogus purchases*.

2. The Ld. DR pleaded for restoration of assessment framed by Ld. AO whereas Ld. AR pleaded for dismissal of the appeal.

3.1 The material facts are that the assessee being resident individual stated to be engaged as civil contractor was assessed for the year under consideration u/s 144 r.w.s. 147 on 09/03/2015. Pursuant to receipt of certain information from DGIT (Inv.) / Sales Tax Department, Mumbai, it transpired that the assessee made alleged bogus purchases of Rs.5.88 Lacs from an entity namely M/s Praveen Steel Traders / Anuradha Traders. Accordingly, the case was reopened and the assessee was required to file requisite details to substantiate these purchases.

3.2 The assessee could not defend the purchases so made and notices issued by Ld. AO u/s 133(6) to the supplier to confirm the transaction did not elicit any satisfactory response. Consequently, Ld. AO disallowed these purchases and added them back to assessee's income.

4. During appellate proceedings, the assessee, inter-alia, submitted that the material purchased from the stated supplier was utilized in the executing the work contracts and therefore, the purchases could not be held to be bogus. The Ld. CIT(A) concurred with the submissions that there could not be any sales without corresponding purchases and therefore, restricted the additions to 12.5% of 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. 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 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 15<sup>th</sup> 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.**