

आयकर अपीलिय अधिकरण
मुंबई पीठ "एस एम सी", मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 5726/मुं/2019 (नि.व 2009-10)
ITA NO.5726/MUM/2019 (A.Y 2009-10)

Income Tax Officer-20(1)(1)
Room No.124, 1st Floor, Piramal Chambers,
Lal Baug, Parel,
Mumbai 400 012

..... अपीलार्थी /Appellant

बनाम Vs.

Shri Abdul Halim Kifaitulla Khan,
Plot No.241, Kolsa Bunder,
Reay Road, Darukhana,
Mumbai 400 010.

PAN: **ATCPK-8331M**

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Sushil Kumar Mishra

प्रतिवादी द्वारा/Respondent by : Shri Vimal Punmiya

सुनवाई की तिथि/ Date of hearing : 01/04/2021

घोषणा की तिथि/ Date of pronouncement : 15/06/2021

आदेश/ ORDER

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals) Mumba-32 [in short 'the CIT(A)] dated 26/06/2019 for the assessment year 2009-10.

2. Shri Vimal Punmiya appearing on behalf of the assessee submitted that the assessee is a trader in MS Pipes and Tubes. The assessment in the case of

assessee for assessment year 2009-10 was reopened on the basis of information received from the Sales Tax Department, Government of Maharashtra. As per information, the assessee had allegedly obtained bogus purchase bills aggregating to Rs.56,36,627/- from four dealers. The assessee furnished relevant documents to prove genuineness of purchases, however, the Assessing Officer rejected the same and disallowed 12.5% of alleged bogus purchases and thus, made addition of Rs.7,04,578/-. The assessee filed appeal against assessment order dated 18/02/2015. The CIT(A) restricted the addition to 5% of such purchases. The G.P. ratio declared by the assessee during the relevant period is 4.10%. The assessee has accepted the addition made by CIT(A). The Id. Authorized Representative of assessee prayed for upholding the impugned order and prayed for dismissing the appeal of Revenue.

3. On the other hand, Shri Sushil Kumar Mishra representing the Department strongly supported the assessment order and prayed for reversing the findings of CIT(A) and upholding addition made by the Assessing Officer. The Id. Departmental Representative submitted that the assessee failed to discharge his onus in proving genuineness of purchases and the dealers.

4. Both sides heard, orders of authorities below examined. Undisputedly, the assessee failed to substantiate genuineness of purchases made from dealers, declared as hawala operators by the Sales Tax Department, Government of Maharashtra. The G.P declared by assessee on regular transactions is 4.10% and the same has been accepted by the Revenue. Taking into consideration entirety of facts, estimated addition of 12.5% by the Assessing Officer is on higher side. I concur with the findings of CIT(A) in

restricting addition on bogus purchases to 5%. The appeal of Revenue is without any merit, hence, dismissed.

Order pronounced in the open Court on Tuesday, the 15th day of June, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 15/06/2021
Vm, Sr. PS (O/S)

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

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BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai