

आयकर अपीलीय 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. 5785/मुं/2019 (नि.व 2011-12)
ITA NO.5785/MUM/2019(A.Y 2011-12)

Income Tax Officer -32(1)(2)
Room No.704, 7th Floor,
Kautilya Bhavan, Bandra Kurla Complex,
Bandra (E) Mumbai – 400 051

..... अपीलार्थी /Appellant

बनाम Vs.

Shri Ashish Ashwinbhai Mehta,
'B'Wing No.12, Estee Geejay Society,
Saibaba Nagar, Borivali (W),
Mumbai 400 092

PAN: AHVPM-8168-P

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Sushil Kumar Mishra
प्रतिवादी द्वारा/Respondent by : Shri Manish J. Seth
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 against the order of Commissioner of Income Tax (Appeals) -46, Mumbai [in short 'the CIT(A)'] dated 04/06/2019 for the assessment year 2011-12.

2. Shri Sushil Kumar Mishra representing the Department submitted that during the period relevant to the assessment year under appeal the assessee has indulged in obtaining bogus purchase bills aggregating to Rs.1,86,68,872/- from various (16) hawala dealers. During assessment proceedings, the assessee could neither prove bona-fide of dealers nor purchases made from them. The notices issued under section 133(6) of the Income Tax Act,1961 (in short 'the Act') to dealers on the

addresses furnished by the assessee were returned back unserved by postal authorities with remarks 'left/not known'. Only one dealer i.e. M/s. Navdeep Trading Corporation responded to the notice denying any transaction with the assessee. The Assessing Officer estimated profit margin on bogus purchases at 12.5% and made addition of Rs.23,33,609/-. The CIT(A) reduced the addition to 8% of bogus purchases. The Id.Departmental Representative submitted that estimation of profit margin by Assessing Officer is reasonable and fair, therefore, the same should be sustained. The Id.Departmental Representative prayed for reversing the finding of CIT(A).

3. On the other hand, Shri Manish J. Seth appearing on behalf of the assessee vehemently supported the impugned order. The Id.Authorized Representative of the assessee submitted that the assessee is a wholesale dealer in chemicals. The Id. Authorized Representative of the assessee submitted that in assessment proceedings the assessee furnished various documents viz. purchase invoices, sales invoices, delivery challans, quantitative details of all purchases and corresponding sales, bank statement, tax audit report, etc. to substantiate genuineness of purchase transactions. The Assessing Officer without examining the documents furnished by the assessee rejected the books of assessee under section 145(3) of the Act and made addition by estimating G.P on alleged bogus purchases @ 12.5%. The assessee has declared G.P of 1.5% during the relevant period. The only reason for making addition by the Assessing Officer was that the assessee has failed to produce dealers from whom alleged bogus purchases were made. The Id.Authorized Representative of the assessee submitted that the assessee has accepted the disallowance made by CIT(A) at 8% to end litigation. The Id.Authorized Representative of the assessee prayed for dismissing appeal of the Revenue and upholding the order of CIT(A).

4. Both sides heard, orders of authorities below examined. The assessee has purportedly indulged in obtaining bogus purchase bills from declared hawala

operators. The CIT(A) has upheld the finding of Assessing Officer that the assessee has made bogus purchases from hawala dealers. However, the CIT(A) has restricted the addition to 8% of the bogus purchases. Taking into consideration entirety of facts, I am of the considered view that estimation of profit margin by the Assessing Officer is on higher side. I find the order of CIT(A) fair and reasonable, hence, warrants no interference. The impugned order is upheld and appeal by the Revenue is dismissed, being devoid of merit.

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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai