

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. 5825/मुं/2019 (नि.व 2010-11)
ITA NO.5825/MUM/2019(A.Y 2010-11)

Income Tax Officer-32(2)(4)
718, 7th Floor, Kautilya Bhavan,
C-41 to C-43, G-Block,
BKC, Bandra (East),
Mumbai 400 051

..... अपीलार्थी /Appellant

बनाम Vs.

Shri Nilesh M. Jain,
B-602, Tulip Building, Royal Complex,
Eksar Road, Borivali West,
Mumbai 400 092

PAN: **AAJPJ- 7580-P**

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Ms.Smita Verma

प्रतिवादी द्वारा/Respondent by : Shri Ashok Sharma

सुनवाई की तिथि/ Date of hearing : 05/04/2021

घोषणा की तिथि/ Date of pronouncement : 22/06/2021

आदेश/ ORDER

This appeal by the Revenue is directed against the order of Commissioner of Income Tax(Appeals) Mumbai-46 [in short 'the CIT(A)'] dated 10/06/2019 for the assessment year 2010-11.

2. Shri Ashok Sharma appearing on behalf of the assessee submitted that the assessee is a building material supplier. The assessment in the case of assessee for assessment year 2010-11 was reopened on the ground that the assessee has obtained bogus purchase bills amounting to Rs.49,11,365/- from various (13) hawala dealers. The assessee furnished relevant documents Including purchase bills, and details of

payments made through cheque to substantiate genuineness of purchases. After considering the details furnished by the assessee, the Assessing Officer made addition of Rs.6,13,924/- by estimating G.P @ 12.5% on alleged bogus purchases. In first appeal, the CIT(A) took cognisance of G.P declared by the assessee and restricted the addition to 9% of bogus purchases. The same has been accepted by the assessee. The Id.Authorized Representative of the assessee defended the order of CIT(A) and prayed for dismissing appeal of the Revenue.

3. Per contra, Ms. Smita Verma representing the Department vehemently defended the assessment order. The Id.Departmental Representative submitted that the assessee has failed to prove genuineness of purchases and the dealers. The notices issued under section 133(6) of the Income Tax Act,1961 (in short 'the Act') by the Assessing Officer were returned back by the postal authorities with the remarks 'left'. Neither any confirmation from the dealers were filed by the assessee nor any documentary evidence to substantiate trail of goods was produced by the assessee. The Id. Departmental Representative prayed for reversing the findings of CIT(A) and upholding the addition on account of bogus purchases made by Assessing Officer.

4. Both sides heard, orders of authorities below examined. Undisputedly, the assessee failed to prove genuineness of the dealers and the purchase made from them. The Assessing Officer made estimated addition of 12.5% on alleged bogus purchases. The CIT(A) has restricted the addition to 9%. The assessee has declared over all G.P of 8.11%. I find no infirmity in the impugned order, the same is upheld and appeal of the Revenue is dismissed, being devoid of any merit.

Order pronounced in the open Court on Tuesday, the 22nd day of June, 2021

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated /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