

आयकर अपीलीय अधिकरण  
मुंबई पीठ "एस एम सी" , मुंबई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
आअसं. 5511/मुं/2019 (नि.व.2009-10)  
ITA NO.5511/MUM/2019 (A.Y.2009-10)

ITO -21(1)(4),  
Piramal Chambers,  
1<sup>st</sup> Floor, Room No. 108,  
Lalbaug, Parel,  
Mumbai-400012

..... अपीलार्थी /Appellant

बनाम Vs.

M/s Campbell Electronics  
Unit No. 9, Prabhadevi Indl. Estate,  
V.S. Marg, Prabhadevi,  
Mumbai-400025.

PAN: **AACFC4531G**

..... प्रतिवादी /Respondent

अपीलार्थी द्वारा/ Appellant by : Sh. Sushil Kumar Mishra

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 30/03/2021

घोषणा की तिथि/ Date of pronouncement : 11/06/2021

आदेश/ ORDER

**PER VIKAS AWASTHY, J.M:**

This appeal by the Revenue is against the order of Commissioner of Income Tax (Appeals)-33, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 20.06.2019 for the Assessment Year (AY) 2009-10.

2. The brief facts as emanating from records are: The assessee is a manufacturer and trader of Pharmaceutical testing equipments. The assessment for AY 2009-10 in the case of assessee was re-opened on the ground that the assessee has obtained bogus purchase bills amounting to Rs. 3,61,932/- from two entry providers i.e.

(i)	M/s Hardik Metal Corporation	Rs. 2,599/-
(ii)	Apple Steel	<u>Rs. 3,59,333/-</u>
		<u>Total Rs. 3,61,932/-</u>

3. During assessment proceedings, the AO issued notice under section 133(6) of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'] to the aforesaid dealers, however, the same were returned back unserved by the postal authorities. The AO made addition of entire alleged bogus purchases. Against the assessment order dated 03.11.2014 passed under section 143(3) read with section 147 of the Act, the assessee filed appeal before the CIT(A). The CIT(A) after examining the facts restricted the addition to 25% of the said bogus purchases.

4. Shri Sushil Kumar Mishra representing the Department vehemently defended the assessment order and prayed for 100% disallowance of bogus purchases. In support of his submissions, the Id. DR placed reliance on the decision of Hon'ble Apex Court in the case of N.K. Proteins Ltd. [84 taxmann.com 195].

5. Submissions made by Id. DR heard, orders of authorities below examined. Undisputedly, the assessee failed to discharge its onus in proving genuineness of the dealers from whom alleged bogus purchases were made

and the genuineness of the transactions. At the same time, the AO has accepted the sales turnover declared by the assessee. It is only the profit element embedded in such transaction that can be brought to tax, entire alleged bogus purchases cannot be added. [Re: PCIT vs. Paramshakti Distributors Pvt. Ltd. in ITA No. 413 of 2017 decided on 15.07.2019 by Hon'ble Bombay High Court].

6. I find no infirmity in the order of CIT(A) in restricting the disallowance on bogus purchases to 25%. Therefore, the impugned order is upheld and the appeal of Revenue is dismissed, sans merit.

Order pronounced in the open court on Friday, the 11<sup>th</sup> day of June, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 11/06/2021

SK, PS

**प्रतिलिपि अग्रेषित Copy 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.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)

**ITAT, Mumbai**