

आयकर अपीलीय अधिकरण “एक-सदस्यमामला” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI

माननीय श्री अमरजीत सिंह, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI AMARJIT SINGH, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.2795/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2009-10)

Income Tax Officer-27(1)(1) Tower No.6, 4 th Floor 406, Vashi Rly. Station Complex Vashi, Navi Mumbai.	बनाम/ Vs.	Shri Anil Ramniklal Jasani 7, Valmini Building R.B. Mehta Marg Ghatkopar (E), Mumbai-400 077
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAGPJ-9392-J		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Ms. Smita Verma-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	05/07/2021
घोषणा की तारीख / Date of Pronouncement	:	05/07/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue is a recalled matter since the appeal was disposed-off by Tribunal vide order dated 30/01/2019 on account of low tax effect. However, the order was recalled at revenue’s instance vide order dated 10/05/2021 since the matter was found to be covered under exception 10(e) of CBDT Circular No. 03/2018 dated 11/07/2018. Accordingly, the appeal has come up for fresh hearing before this bench.

2. None has appeared for assessee. The perusal of order sheet entries would reveal that none is appearing for assessee since last many occasions. Even none was present when the appeal was heard on 28/01/2019 and also when revenue's misc. application was heard on 05/03/2021. Left with no option, we proceed to adjudicate the appeal after hearing Ld. Sr. DR who pleaded for restoration of assessment framed by Ld. AO. The only issue involved in the appeal is estimated additions on account of alleged bogus purchases.

3. The material facts are that the assessee being resident individual stated to be engaged in trading of chemicals was assessed for the year under consideration u/s 144 r.w.s. 147 on 25/02/2015. Pursuant to receipt of certain information from DGIT (Inv.) / Sales Tax Department, Mumbai, it was alleged that the assessee made suspicious purchases aggregating to Rs.43.94 Lacs from 14 entities as detailed in the assessment order. Accordingly, the case was reopened as per due process of law and the assessee was required to file requisite details to substantiate these purchases. Since the assessee failed to attend the assessment proceedings, these purchases were disallowed and added back to the income of the assessee.

4. During appellate proceedings, the assessee submitted that corresponding sales were affected and the payment to the suppliers was through banking channels. The attention was drawn to the fact that similar addition in AYs 2010-11 & 2011-12 were estimated by Ld. AO @12.5%. The Ld. CIT(A), in the light of factual matrix as well as assessee's submissions, opined that there could

be no sales without purchases and therefore, entire purchases could not be disallowed. Finally, the estimation was made @12.5% to plug the revenue leakage. Aggrieved, the revenue is in further appeal before us.

5. Going by the factual matrix as enumerated in the orders of lower authorities, we concur with findings of Ld. CIT(A) that there could be no sales without purchases keeping in view the fact that the assessee was engaged in trading activities. Similar estimation was made by Ld. AO in earlier years @12.5%. Therefore, to plug the revenue leakage, estimation of 12.5% was quite fair and reasonable. By confirming the same, we dismiss the appeal.

6. The appeal stands dismissed.

Order pronounced on 05th July, 2021.

Sd/- (Amarjit Singh)	Sd/- (Manoj Kumar Aggarwal)
न्यायिक सदस्य / Judicial Member	लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 05/07/2021
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.