

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. 5743/मुं/2019 (नि.व 2009-10)
ITA NO.5743/MUM/2019(A.Y 2009-10)

ITO-20(2)(1),
Room No.216, 2nd Floor,
Piramal Chamber, Lalbaug,
Mumbai 400 012

..... अपीलार्थी /Appellant

बनाम Vs.

Mukeshkumar Kishoremal Doshi,
212, Shaymsunder Co-op Hs. Society No.3,
2nd Floor, K.K.Marg
Mumbai 400 018.

..... प्रतिवादी/Respondent

PAN: **AACPD-1669-C**

अपीलार्थी द्वारा/ Appellant by : Ms.Smita Verma

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 06/04/2021

घोषणा की तिथि/ Date of pronouncement : 01/07/2021

आदेश/ ORDER

This appeal by the Revenue is directed against the order Commissioner of Income Tax(Appeals)-32, Mumbai [in short 'the CIT(A)'] dated 12/06/2019 for the assessment year 2009-10.

2. Ms. Smita Verma representing the Department submitted that the assessee is a dealer in Aluminium Extrusions and Glass. The assessment in the case of the assessee for assessment year 2009-10 was reopened on the ground that the assessee has obtained bogus purchase bills amounting to Rs.1,02,19,926/- from six hawala dealers during the period relevant to the assessment year under appeal. During assessment proceedings the assessee

could neither prove genuineness of the dealers nor purchases made from them. Thus, the Assessing Officer made addition of Rs.12,77,491/- by estimating profit margin of 12.5% on bogus purchases. In first appellate proceedings the CIT(A) restricted the addition to Rs.5,10,996/- by estimating profit at 5% of the bogus purchases. The Id.Departmental Representative prayed for restoring disallowance on bogus purchases made by the Assessing Officer .

3. Submissions made by Id.Departmental Representative heard, orders of authorities below examined. Undisputedly, the assessee failed to discharge his onus in proving genuineness of the dealers and the purchases made from them. At the same time it is observed that the Assessing Officer has not disputed the sales turnover declared by the assessee. The assessee has declared G.P rate of 3.67%. The same has been accepted by the Assessing Officer. Estimation of G.P @ 12.5% on alleged bogus purchases by the Assessing Officer is on higher side. The CIT(A) has estimated the profit margin of 5%. I concur with the findings of CIT(A). Hence, the impugned order warrants no interference, the same is upheld and the appeal of Revenue is dismissed being devoid of any merit.

4. In the result, appeal by the Revenue is dismissed.

Order pronounced in the open Court on Thursday, the 1st day of July, 2021

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated 01/07/2021
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