

आयकर अपीलिय 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. 5704/मुं/2019 (नि.व.2012-13)
ITA NO.5704/MUM/2019 (A.Y.2012-13)

ITO-2(2)(3),
311, 3rd Floor,
Piramal Chambers,
Lal Baug, Larel,
Mumbai-400012.

..... अपीलार्थी /Appellant

बनाम Vs.

M/s Lista Jewels
Office No. 1 & 2,
Khar Sheetal CHSL
Union Park, Khar (W),
Mumbai-400052.

PAN: **AACFL7885N**

..... प्रतिवादी /Respondent

अपीलार्थी द्वारा/ Appellant by : Ms. Smita Verma

प्रतिवादी द्वारा/Respondent by : Shri Nirav Mehta

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

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

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-34, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 16.05.2019 for the Assessment Year (AY) 2012-13.

2. Ms. Smita Verma representing the Department submitted that the assessee is engaged in manufacturing and retail trading of Gold and Diamond Jewellery. As per information received from DGIT (Investigation), Mumbai, the assessee had obtained accommodation entries from concerns belonging to Bhanwarlal Jain Group. Shri Bhanwarlal Jain is a leading entry provider. During the course of search and seizure action on the group, he admitted that he has floated various concerns solely for the purpose of providing accommodation entries on commission basis. The assessee has obtained bogus purchase bills aggregating to Rs. 45,09,746/- from bogus concerns belonging to Bhanwarlal Jain group. During assessment proceedings, the Assessing Officer (AO) has rejected the books of assessee and thereafter estimated Gross Profit (GP) @ 25% on bogus purchase entries obtained by assessee from the concerns belonging to Bhanwarlal Jain. In first appellate proceedings, the CIT(A) has restricted the addition to 12.5%. The Id. DR prayed for reversing the findings of CIT(A) and uphold the addition made in assessment order.

3. Per contra, Shri Nirav Mehta appearing on behalf of the assessee supporting the order of CIT(A) submitted that the assessee had furnished various documents before the AO to substantiate genuineness of purchases. The assessee furnished copies of purchase bills, bank statements, ledger accounts and even affidavit of the vendors confirming transactions. The notices under section 133(6) of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'] were issued to the parties from whom the assessee had made purchases. All the parties responded to the notices and filed their acknowledgement of return of income, copies of invoices, ledger accounts of

the assessee in their books and the copies of bank statements showing payments received from the assessee against the sales. Despite having furnished the evidences to prove genuineness of transactions, the AO made addition. The CIT(A) after examining the documents has restricted the addition to 12.5% of alleged bogus purchases, the assessee has accepted the same to put litigation to an end.

4. Both sides heard, orders of authorities below examined. The assessee has allegedly obtained bogus purchase bills from the concerns belonging to Bhanwarlal Jain group. The AO after rejecting the books of assessee has made addition by estimating profit margin on bogus purchases at 25%. In first appellate proceedings, the CIT(A) has upheld the findings of AO in so far as assessee's involvement in bogus purchase is concerned, however, the CIT(A) allowed part relief to assessee by restricting quantum addition to 12.5. Keeping in view the nature of assessee's business, estimation of profit margin at 25% is very much on the higher side. The estimation of profit margin by CIT(A) has been accepted by the assessee which seems to be reasonable. I see no infirmity in the impugned order, hence, the same is upheld and appeal of the Revenue is dismissed, sans merit.

Order pronounced in the open court on **Thursday**, the **01st** day of July, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

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

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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai