

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. 5756/मुं/2019 (नि.व.2009-10)
ITA NO.5756/MUM/2019 (A.Y.2009-10)

ITO-6(3)(1),

Room No. 503, 5th Floor,

Aayakar Bhavan, M.K. Road,

New Marine Lines,

Mumbai-400020.

..... अपीलार्थी /Appellant

बनाम Vs.

M/s Ideen Furniture Pvt. Ltd.

5th Floor, Militia Apartment

M.P. Road, Mazgaon,

Mumbai-400010.

PAN: **AABC15128F**

..... प्रतिवादी /Respondent

अपीलार्थी द्वारा/ Appellant by : Ms. Smita Verma

प्रतिवादी द्वारा/Respondent by : Shri Mahesh Saboo

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

घोषणा की तिथि/ Date of pronouncement : 02/07/2021

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-12, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 15.05.2019 for the Assessment Year (AY) 2009-10.

2. Shri Mahesh Saboo appearing on behalf of the assessee submitted that the assessee is engaged in business of interior designing. 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. 3,59,436/- from three parties viz:

1. Suraj Timber Mart	Rs. 3,44,973/-
2. G.M. Enternational	Rs. 8,800/-
3. Asian Steel	<u>Rs. 5,663/-</u>
Total	<u>Rs. 3,59,436/-</u>

The aforesaid parties were stated to be bogus entry providers as per the list prepared by the Sales Tax Department, Government of Maharashtra. During assessment proceedings, the assessee furnished copies of purchase bills, bank details, etc. to substantiate genuineness of purchases. However, the Assessing Officer (AO) disbelieved the same and made addition of entire alleged bogus purchases. The assessee carried the issue in appeal before the CIT(A). The CIT(A) after examining the facts and documents on record restricted the addition on account of bogus purchases to 12.5% of the purchases made from only one party i.e. M/s Suraj Timber Mart. The assessee has accepted the same and is not in appeal against the addition confirmed by the CIT(A).

3. Ms. Smita Verma representing the Department vehemently defended the assessment order. The Id. DR submitted that the assessee has failed to substantiate genuineness of the dealers and the purchases made from them. The Id. DR pointed that the assessee has failed to furnish documents such as delivery challans, transport receipts, stock register etc. to prove trail of goods. No quantitative details such as opening stock, consumption and closing stock

of each raw-material and finished goods were furnished by the assessee. The Id. DR strongly supporting the assessment order prayed for restoring the findings of AO.

4. Both sides heard, orders of the authorities below examined. The solitary issue raised by Revenue in appeal is against relief granted by the CIT(A) in respect of bogus purchases. The assessee has allegedly obtained bogus purchase bills from three parties. The CIT(A) deleted addition in respect of M/s G.M. International Rs. 8,800/- and M/s Asian Steel-Rs. 5,663/- as the purchases from said parties pertain to subsequent AY and were not relevant to the period AY under appeal. As regards, purchase from third dealer i.e. M/s Suraj Timbar Mart, the CIT(A) restricted the addition to 12.5%. Undisputedly, the assessee failed to discharge his onus in proving genuineness of the purchases from suspicious dealer. Since, the AO accepted sales turnover declared by the assessee, the entire alleged bogus purchases could not have been added. It is only the profit element embedded in such transactions that can be brought to tax (Re: PCIT vs. Paramshakti Distributors Pvt. Ltd. in Income Tax Appeal No. 413 of 2017 decided on 15.07.2019). The CIT(A) has restricted the addition on alleged bogus purchases made during the impugned AY by estimating profit margin @ 12.5%. I see no infirmity in the impugned order, therefore, the same is upheld and appeal of the Revenue is dismissed, being devoid of any merit.

Order pronounced in the open court on **Friday**, the **02nd** day of July, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 02/07/2021

SK, PS

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