

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. 5788/मुं/2019 (नि.व.2010-11)
ITA NO.5788/MUM/2019 (A.Y.2010-11)

ITO-32(1)(2),
Room No. 734, 7th Floor,
Kautilya Bhavan, BKC,
Bandra (E), Mumbai-400051.

..... अपीलार्थी /Appellant

बनाम Vs.

Ashok C. Chowdhary,
Ground Floor, Chowdhary House,
S.V. Road, Daulat Nagar,
Borivali (E), Mumbai-400066.

PAN: **AATPC8483A**

..... प्रतिवादी /Respondent

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 : 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)-46, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 13.05.2019 for the Assessment Year (AY) 2010-11.

2. Ms. Smita Verma representing the Department submitted that the assessee is engaged in trading of building material. During the period relevant

to AY under appeal, the assessee has obtained bogus purchase bills aggregating to Rs. 68,42,066/- from hawala operators. The assessee could neither prove genuineness of the parties nor the goods purchased from them. The Assessing Officer (AO) after considering the documents furnished by the assessee estimated Gross Profit (GP) @ 12.5% on bogus purchases and thus, made addition of Rs. 8,55,258/-. In first appellate proceedings, the CIT(A) restricted the addition to 6%. The Id. DR pointed that GP declared by the assessee on genuine purchases is 10.18%, the estimation made by AO on bogus purchases at 12.5% was fair and reasonable. The Id. DR prayed for restoring the findings of AO.

3. Submissions made by Id. DR heard, orders of the authorities below examined. Undisputedly, the assessee failed to discharge his onus in proving genuineness of the dealers and alleged purchases made from them. Since, the AO accepted sales turnover declared by the assessee, the AO estimated GP on bogus purchases at 12.5%. A perusal of the impugned order shows that the assessee has already declared GP @ 8.15% on bogus purchase and the GP on genuine purchases at 10.18%. The GP estimated by the CIT(A) on bogus purchases at 6% is over and above the GP declared by the assessee. I find 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 **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