

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. 6467/मुं/2019 (नि.व.2010-11)  
ITA NO.6467/MUM/2019 (A.Y.2010-11)

ITO, Ward-1(4),  
Room No. 11, 6<sup>th</sup> Floor,  
B-Wing, Wagale Industrial Estate,  
Thane (W)-400604.

..... अपीलार्थी /Appellant

बनाम Vs.

Shri Ishwarlal Kanji Patel  
Shop No.04, Dhanlaxmi Shopping Centre,  
Tutu Estate, Hiranandani Road,  
Mumbai-400607.

PAN: **AQSPP2211L**

..... प्रतिवादी /Respondent

अपीलार्थी द्वारा/ Appellant by : Ms. Smita Verma

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 06/05/2021

घोषणा की तिथि/ Date of pronouncement : 12/07/2021

आदेश / ORDER

**PER VIKAS AWASTHY, J.M:**

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-1, Thane [hereinafter referred to as 'the CIT(A)'] dated 15.07.2019 for the Assessment Year (AY) 2010-11.

2. Ms. Smita Verma representing the Department submitted that the assessee is reseller of Plywood, Laminates, Flush Doors, Panel Doors, Timber,

etc. The assessment for the AY 2010-11 in the case of assessee was reopened on the ground that the assessee is beneficiary of accommodation entries obtained from hawala operators. During the course of assessment, the Assessing Officer (AO) held that the assessee has obtained bogus purchase bills aggregating to Rs. 15,94,119/- from three hawala dealers. The assessee could neither prove genuineness of the dealers nor the purchases made from them. The notice issued under section 133(6) of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'] by the AO to the aforesaid dealers were received back unserved from postal authorities with remarks "Not Known". No confirmations from the dealers were either filed by the assessee. Further, the assessee failed to furnish documentary evidence to prove trail of goods, hence, the AO made addition of the entire bogus purchases. In first appellate proceedings, the CIT(A) restricted the addition on account of bogus purchases to 12.5%. The Id. Departmental Representative (DR) placing reliance on the judgment of Hon'ble Supreme Court of India in the case of N.K. Proteins Ltd. v/s DCIT [84 taxmann.com 195] prayed for upholding Assessment Order.

3. Submissions made by Id. DR heard, orders of the authorities below examined. Undisputedly, the assessee failed to discharge his onus in proving authenticity of the dealers and genuineness of the purchases made from them. At the same time, it is observed that the AO has not disputed sales turnover declared by the assessee. Under such circumstances, entire bogus purchases cannot be added. It is only the profit element embedded in such purchases 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) after examining the facts has restricted the addition on account of bogus purchases

to Rs. 1,99,265/- by estimating Gross Profit (GP) at 12.5%. 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 **Monday**, the **12<sup>th</sup>** day of July, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 12/07/2021

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.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**