

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. 5770/मुं/2019 (नि.व.2010-11)
ITA NO.5770/MUM/2019 (A.Y.2010-11)

ITO-32(3)(2),
Room No. 734, 7th Floor,
Kautilya Bhavan, BKC,
Bandra (E), Mumbai-400051.

..... अपीलार्थी /Appellant

बनाम Vs.

Smt. Rupa J. Shah,
Block No.4, Shyamkunj,
2nd Floor, S.V.P. Road,
Borivali (W), Mumbai-400092.
PAN: **ARZPS3269F**

..... 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 11.06.2019 for the Assessment Year (AY) 2010-11.

2. Ms. Smita Verma representing the Department submitted that the assessee has obtained bogus purchase bills aggregating to Rs. 12,37,393/- from

various (nine) dealers, declared as hawala operators by the Sales Tax Department, Government of Maharashtra. The assessee has failed to prove genuineness of dealers and the purchases made from them. No confirmations were filed by the assessee from the dealers nor any documentary evidence was furnished by the assessee to prove trail of goods. The Assessing Officer (AO) made disallowance of Rs. 3,09,348/- by estimating margin @ 25% on bogus purchases. In first appellate proceedings, the CIT(A) has restricted the disallowance to 12.5%. The Id. Departmental Representative (DR) pointed that estimation made by AO is reasonable and fair, therefore, the same should be upheld.

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 the alleged purchases made from them. It is only the profit element embedded in such unproved purchases that can be brought to tax. The AO made estimated disallowance of 25% on bogus purchases. The CIT(A) after examining the facts and after placing reliance on the order of CIT(A) in AY 2011-12 in assessee's own case on identical facts restricted the addition to 12.5% of bogus purchases. I am of considered view that disallowance of 25% by the AO is on higher side. I see no reason to interfere with the estimation made by CIT(A). The appeal of 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