

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "E", MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No. 7799/MUM/2019
Assessment Year: 2010-11**

M/s Elcome Marine Services Pvt. Ltd., (Now known as Elcome Integrated Systems Pvt. Ltd.), G-3, Arihant Building Ahmedabad Street, Carnac Bunder, Mumbai - 400009 PAN: AAACE1240M	Vs.	ACIT-6(2)(2), Income Tax Office, Aayakar Bhavan, Maharishi Karve Road Mumbai - 400020
(Appellant)		(Respondent)

**ITA No. 198/MUM/2020
Assessment Year: 2010-11**

Dy. Commissioner of Income Tax 6(2)(2), Room No. 504, Aayakar Bhavan, M.K. Road, Mumbai - 400020	Vs.	M/s Elcome Marine Services Pvt. Ltd., (Now known as Elcome Integrated Systems Pvt. Ltd.), G-3, Arihant Building Ahmedabad Street, Carnac Bunder, Mumbai - 400009 PAN: AAACE1240M
(Appellant)		(Respondent)

Assessee by : Shri Ashok Puri (AR)
Revenue by : Shri Vijay Kumar Menon (DR)

Date of Hearing: 23/06/2021
Date of Pronouncement: 09/07/2021

ORDER

PER SAKTIJIT DEY, JM

Captioned cross appeals arise out of order dated 24.09.2019 of learned Commissioner of Income Tax (Appeals)-12, Mumbai, for the assessment year 2010-11.

2. Briefly the facts are, the assessee is a resident company and is stated to be engaged in the business of sales and servicing of electronic navigational and communication equipment. For the assessment year under dispute, the assessee filed its return of income on 13.10.2010 declaring total income of Rs. 10,59,22,253/-. Subsequently, based on information received from Sales Tax Department through DGIT (Inv.), Mumbai that the purchases shown by the assessee worth Rs. 20,98,613/- are non-genuine as the concerned selling dealers have been identified to be providing accommodation bills without effecting real transaction, the Assessing Officer reopened the assessment under section 147 of the Income Tax Act, 1961. In course of assessment proceedings, the AO called upon the assessee to prove the genuineness of the purchases. Though, the assessee furnished some documentary evidences, however, the AO was not satisfied. Accordingly, he disallowed the purchases of Rs. 20,98,613/- and added back to the income of the assessee. Assessee contested the aforesaid addition before learned Commissioner (Appeals). Partly accepting the submissions of the assessee, learned Commissioner (Appeals) restricted the disallowance to 12.5% of the alleged non-genuine purchases. Being aggrieved with the aforesaid decision of learned Commissioner (Appeals), both the assessee and revenue are before us.

3. At the outset, learned Authorised Representative of the assessee submitted, while deciding identical issue in assessee's own case in assessment year 2009-10, the Tribunal has restricted the disallowance to 12.5% of the alleged non-genuine purchases. He also relied upon the decision of the Tribunal in case of Indocen Electronic System Pvt. Ltd. vs. ACIT, ITA No. 4345 and 5845/Mum/2018, wherein the Tribunal while deciding identical issue has

upheld the decision of learned Commissioner (Appeals) in restricting the disallowance to 12.5%.

4. The learned Departmental Representative relied upon the observations of the AO and learned Commissioner (Appeals).

5. Having considered rival submissions and perused the material on record, we find that though the AO disallowed the entire purchases, however, learned Commissioner (Appeals) has restricted such disallowance to 12.5%, being the profit element embedded in such purchases. Pertinently, while deciding identical issue in assessee's own case in assessment year 2009-10, the Tribunal, in ITA No. 5995/Mum/2016 dated 15.09.2017 has restricted the disallowance to 12.5% of the alleged non-genuine purchases. Facts being identical, respectfully following the aforesaid decision of the co-ordinate Bench, we uphold the decision of learned Commissioner (Appeals) on the issue. Grounds raised, both, by the assessee and revenue are dismissed.

6. In the result, both the appeals are dismissed.

Order pronounced in the open court on 9th July, 2021.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 09/07/2021

Alindra, PS

आदेश प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**