

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

**BEFORE SHRI SAKTIJIT DEY (JM)**

**ITA No. 7046/MUM/2019**

**Assessment Year: 2007-08**

**&**

**ITA No. 7048/MUM/2019**

**Assessment Year: 2008-09**

ITO-22(2)(3), Mumbai	<b>Vs.</b>	Smt. Lavina S. Gwalani, Flat No. 2, 2 <sup>nd</sup> Floor, Poonam Building, 67-A, Linking Road, Khar (West), Mumbai - 400052 PAN: AAKPG2410J
<b>(Appellant)</b>		<b>(Respondent)</b>

Revenue by : Shri Saurabh Kumar Rai (DR)

Assessee by : None

Date of Hearing : 25/05/2021

Date of Pronouncement: 09/07/2021

**ORDER**

These are appeals by the revenue against a common order dated 06.08.2019 of learned Commissioner of Income Tax (Appeals)-34, Mumbai for the assessment years 2007-08 and 2008-09.

2. The only common dispute in both these appeals is concerning partial relief granted by learned Commissioner (Appeals) in the matter of addition made because of alleged non-genuine purchases.

3. Briefly the facts are, the assessee is an individual and stated to be an exporter of jewellery. For the assessment years under dispute, the assessee had filed returns of income in regular course. Assessments in case of the assessee were originally completed under section 143(3) of the Income Tax Act, 1961. Subsequently, the Assessing Officer (AO) received information from the

DGIT (Inv.), Mumbai that the assessee is a beneficiary of accommodation entries provided by way of bogus purchases from one of the concerns related to Bhanwarlal Jain Group, a leading entry provider. Based on such information, the AO reopened the assessments for both the assessment years. In course of assessment proceedings, the AO called upon the assessee to produce supporting evidence to prove the purchases. In response, the assessee furnished purchase bills, ledger account copy, bank statement copy etc. to prove the purchases. The assessee also furnished the sales bills containing stamp of custom authorities in support of export of goods. The AO, however, raised doubt with regard to the source of purchase. He was of the view that the assessee must have purchase the goods from grey market or unverified sources and to regularise such transaction has obtained accommodation bills from the concerned parties. Therefore, after rejecting the books of account the AO proceeded to disallow 25%, being the profit element on the alleged non-genuine purchases in both the assessment years under dispute. The assessee contested the aforesaid disallowances 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 in both the years.

4. When the appeals were called for hearing, none appeared on behalf of the assessee. However, considering the nature of dispute, I proceed to dispose of the appeal ex-parte qua the assessee after hearing the learned Departmental Representative and based on materials on record.

5. I have considered the submission of learned Departmental Representative and perused the material on record. As could be seen, the AO has accepted the fact that the assessee is an exporter of jewellery and in fact had purchased the goods which are subject matter of dispute. He has only doubted the source of such purchases. For this reason alone, instead of disallowing the entire purchases, the AO has restricted the disallowance to 25%, being the profit element embedded in such purchases. Learned Commissioner (Appeals) has reduced such disallowance to 12.5%. Considering

the nature of business carried on by the assessee and all other relevant factors, I am of the considered opinion that disallowance made at 12.5% on the alleged non-genuine purchases is fair and reasonable, hence, deserves to be upheld. Accordingly, I do so. Grounds are dismissed.

6. In the result, appeals are dismissed.

Order pronounced in the open court on 9<sup>th</sup> July, 2021.

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