

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

BEFORE SHRI SAKTIJIT DEY (JM)

**ITA No.6910/MUM/2019
Assessment Year: 2009-10
&
ITA No.6911/MUM/2019
Assessment Year: 2010-11**

Income Tax Officer- 20(1)(2), Room No. 119, 1 st Floor, Piramal Chamber, Lalbaug, Parel, Mumbai - 400012	Vs.	Shri Gopinath Ganpat Bolinjkar, 16, Wadala Udyog Bhavan, Naigaon Cross Road, Wadala, Mumbai - 400031 PAN: AAAPB7387F
(Appellant)		(Respondent)

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 two separate orders, both dated 07.08.2019, of learned Commissioner of Income Tax (Appeals) - 28, Mumbai for the assessment years 2009-10 and 2010-11.

2. The only common dispute in both these appeals relates to 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 engaged in manufacturing of engineering instruments. For both the assessment years under dispute, the assessee had filed his returns of income in regular course, which were processed under section 143(1) of the Income Tax Act, 1961. Subsequently, the assessing officer (AO) received information from the Sales Tax Department, Government of Maharashtra through DGIT

(Inv.) indicating that purchases worth Rs. 9,10,636/- in assessment year 2009-10 and Rs. 17,71,807/- in assessment year 2010-11 are non genuine, as, the concerned selling dealers were found to be indulging in providing accommodation bills without real sale transaction. Based on such information, the AO reopened the assessments under section 147 of the Act. Though, in course of assessment proceedings, the assessee claimed the disputed purchases to be genuine, however, the AO was not convinced. He observed, notices issued under section 133(6) of the Act seeking information from the concerned selling dealers did not bear any result. Therefore, he concluded that though the source of purchases is doubtful, however, the assessee must have purchased the goods from unverified sources. Therefore, he disallowed 25% out of the purchases made from all the parties, except, M/s Vimal Engineering Corporation. In respect of this party, the AO disallowed the entire purchases in both the assessment years under dispute. The assessee contested the disallowances made by the AO in appeals preferred before learned Commissioner (Appeals). Partly accepting the submissions of the assessee, learned Commissioner (Appeals) restricted the disallowance to 12.5% of all the purchases, including, the purchases made from M/s Vimal Engineering Co. in both the assessment years under dispute.

4. When the appeals were called for hearing, no one appeared on behalf of the assessee. Considering the nature of dispute, I proceed to dispose of the appeals ex-parte qua the assessee after hearing the learned Departmental Representative and based on material on record.

5. I have considered the submissions of learned Departmental Representative and perused the material on record. It is evident, though, the AO has doubted the source of purchases, however, he was convinced that the assessee had purchased the goods from unverified sources in respect of all purchases except the purchases made from M/s Vimal Engineering Co. Therefore, while disallowing the entire purchases relating to the Vimal Engineering Co. he has disallowed only the profit element embedded in all other purchases by estimating at 25%. Whereas, learned Commissioner

(Appeals) has restricted the disallowance to 12.5% of all purchases. It is observed, while restricting the disallowance to 12.5%, learned Commissioner (Appeals) has taken note of the applicable VAT rate on the goods purchased. Even otherwise also, in similar nature of cases the profit element is generally estimated at 12.5%. In view of the aforesaid, I do not find any infirmity in the decision of learned Commissioner (Appeals). Grounds are dismissed.

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

Order pronounced in the open court on 9th 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