

THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" Bench, Mumbai  
Shri Shamim Yahya (AM) & Shri Amarjit Singh (JM)

I.T.A. No. 5254/Mum/2019 (Assessment Year 2011-12)

ITO-15(1)(2) Room No. 15B Ground Floor Aayakar Bhavan M.K. Road Mumbai-400 020.	Vs.	M/s. Famous Fashion Pvt. Ltd. (earlier known as M/s. Kamat Printers Pvt.Ltd.) Unit No. 359, A to Z Industrial Estate Ganpatrao Kadam Marg Lower Parel Mumbai-400 013.
(Appellant)		(Respondent)

C.O. No. 14/Mum/2021 (Assessment Year 2011-12)

M/s. Famous Fashion Pvt. Ltd. (earlier known as M/s. Kamat Printers Pvt. Ltd.) Unit No. 359, A to Z Industrial Estate Ganpatrao Kadam Marg Lower Parel Mumbai-400 013.	Vs.	ITO-15(1)(2) Room No. 15B Ground Floor Aayakar Bhavan M.K. Road Mumbai-400 020.
(Appellant)		(Respondent)

PAN : AAACK1570A

Assessee by	None
Department by	Shri Anoop
Date of Hearing	17.05.2021
Date of Pronouncement	01.07.2021

ORDER

Per Shamim Yahya (AM) :-

This appeal by the Revenue and cross objection by the assessee arise out of the order of learned CIT(A) dated 22.5.2019 pertains to A.Y. 2011-12.

Revenue's appeal :

2. The issue raised is that learned CIT(A) erred in restricting the disallowance to 12.5%.

3. Brief facts are that the Assessing Officer disallowed 100% of purchases based upon information received from sales tax department that assessee has indulged in hawala purchase. The assessee provided the documentary evidence but Assessing Officer took adverse inference on assessee's inability to produce the supplier.

4. Upon assessee's appeal learned CIT(A) restricted the disallowance to 12.5% based upon Hon'ble Gujarat High Court decision in Simit P. Seth [356 ITR 451].

5. Against this order assessee is in appeal before us.

6. We have heard learned Departmental Representative and perused the records. We find that 100% addition has been made by the Assessing Officer in the premise that the supplier has not been produced by the assessee. No defect in the voucher or books has been noted nor any doubt has been expressed on sale. In these circumstances in our considered opinion the disallowance sustained by learned CIT(A) serves the interest of justice. Accordingly, we uphold the same. The case law referred by the Revenue in grounds has been duly explained and distinguished by Hon'ble Bombay High Court in Mohd. Hazi Adam & Co. (ITA No. 1004 of 2006 dated 11.2.2019).

Assessee's Cross objection :-

7. Grounds of appeal read as under :

1. On the facts and in the circumstance of the case and in law, the proceedings initiated u/s 147 of the act is invalid and bad in law and the CIT(A) erred in not dealing with this ground of appeal.
2. On the facts and in the circumstance of the case and in law, the assessment order passed us 143(3) r.w.s. 147 of the act is invalid and bad in law and the CIT(A) erred in not dealing with this ground of appeal

3. On the facts and in the circumstance of the and in law, the learned CIT(A) erred in sustaining addition to extent of 12.5% of the so called bogus purchase addition of Rs.6,18,750/-
8. At the outset it is noted that there is a delay of 48 days in filing the cross objection. The assessee has not filed any condonation request. Hence, this cross objection is not maintainable. Hence, the same is dismissed in limine.
9. In the result, the Revenue's appeal and assessee cross objection both are dismissed.

Pronounced in the open court on 1.7.2021.

Sd/-  
(AMARJIT SINGH)  
JUDICIAL MEMBER

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 01/07/2021

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

PS

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai