

आयकर अपीलीय 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. 6264/मुं/2019 (नि.व.2009-10)
ITA NO.6264/MUM/2019 (A.Y.2009-10)

ITO-20(3)(2),
Room No. 612, 6th Floor,
Piramal Chamber, Lalbaug,
Parel, Mumbai-400012.

..... अपीलार्थी /Appellant

बनाम Vs.

M/s Royal Plastics
506, Milan Industrial Estate,
Abhyudaya Nagar, Cotton Green
Mumbai-400033.

..... प्रतिवादी/Respondent

PAN: **AAAFR4437L**

अपीलार्थी द्वारा/ Appellant by : Ms. Smita Verma

प्रतिवादी द्वारा/Respondent by : Ms. Ruchi Rathod

सुनवाई की तिथि/ Date of hearing : 03/05/2021

घोषणा की तिथि/ Date of pronouncement : 16/07/2021

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is against the order of Commissioner of Income Tax (Appeals)-32, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 10.07.2019 for the Assessment Year (AY) 2009-10.

2. Ms. Smita Verma representing the Department submitted that during the period relevant to Assessment Year (AY) under appeal, the assessee

obtained bogus purchase bills from M/s Shree Nakodaji Impex Rs. 8,98,974/- and M/s Entech Enterprises of Rs. 6,06,906/-. The name of both the dealers was mentioned in the list of hawala dealers released by the Sales Tax Department, Government of Maharashtra. During assessment proceedings, neither the assessee could produce the dealers nor any confirmations were filed from them. Even the notices issued under section 133(6) of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'] by the AO to the said dealers remained unserved. No document was filed by the assessee in the form of lorry receipts, stock register octroi receipts, etc. to prove trail of goods. Since, the AO accepted the sales turnover declared by the assessee, he estimated Gross Profit (GP) on bogus purchases at 12.5%. In first appellate proceedings, the CIT(A) restricted the GP on bogus purchases to 11%. The Id. DR prayed for restoring the estimation of GP as per assessment order.

3. Ms. Ruchi Rathod appearing on behalf of the assessee vehemently supported the impugned order and prayed for dismissing the appeal of Revenue.

4. Both sides heard, orders of authorities below examined. The assessee is engaged in manufacturing of plastic files and folders. Undisputedly, the assessee failed to discharge its onus in proving genuineness of the aforesaid dealers and purchases made from them. During the relevant period, the assessee has declared GP of 17.13%, the AO made disallowance of 12.5% on bogus purchases to compensate for the profit earned by the assessee on VAT charges saved. In first appellate proceedings, the CIT(A) has marginally reduced disallowance on bogus purchases to 11%. I find no reason to interfere with the

impugned order, therefore, the same is upheld and appeal of the Revenue is dismissed, sans merit.

Order pronounced in the open court on **Friday**, the **16th** day of July, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 16/07/2021

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.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)
ITAT, Mumbai