

आयकर अपीलीय अधिकरण  
मुंबई पीठ "एस एम सी" , मुंबई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER  
आअसं. 5791/मुं/2019 (नि.व.2009-10)  
ITA NO.5791/MUM/2019 (A.Y.2009-10)

ITO-32(1)(2),  
Room No. 704, 7<sup>th</sup> Floor,  
Kautilya Bhavan,  
Bandra Kurla Complex,  
Bandra(E), Mumbai-400051.

..... अपीलार्थी /Appellant

बनाम Vs.

Shri Chiranjilal B Shah,  
2, Patel Industrial Estate,  
S.V. Road, Dahisar (E),  
Mumbai-400068.

PAN: **AAFPS3862D**

..... प्रतिवादी /Respondent

अपीलार्थी द्वारा/ Appellant by : Sh. Sanjay J. Sethi

प्रतिवादी द्वारा/Respondent by : Sh. Sanjay Bhachawat

सुनवाई की तिथि/ Date of hearing : 09/06/2021

घोषणा की तिथि/ Date of pronouncement : 30/07/2021

आदेश / ORDER

**PER VIKAS AWASTHY, J.M:**

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-46, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 14.06.2019 for the Assessment Year 2009-10.

2. Sh. Sanjay J. Sethi representing the Department submitted that during the period relevant to the Assessment Year (AY) under appeal, the assessee had obtained bogus purchase bills amounting to Rs. 1,64,732/- from three dealers, declared as hawala operators by the Sales Tax Department, Government of Maharashtra. During assessment proceedings, the assessee neither produces the said dealers nor any confirmations from them were filed. No document was furnished by the assessee to prove trail of goods. Thus, the assessee failed to discharge his onus in proving authenticity of the dealers and the purchases made from them. The Assessing Officer (AO) after considering the entire facts estimated Gross Profit (GP) @ 20% on bogus purchases and made addition of Rs. 32,946/-. In First Appellate proceedings, the CIT(A) restricted the addition to 10% of the bogus purchases. The Id. DR prayed for restoring the findings of AO.

3. On the other hand, Sh. Sanjay Bhachawat appearing on behalf of the assessee submitted that the assessee is engaged in the business of manufacturing and selling of rubber goods. During the course of assessment proceedings, the assessee had furnished the name, addresses and TIN of the alleged suspicious dealers. The assessee had also furnished copies of the invoices, delivery challanes, bank details to discharge his onus in proving genuineness of the alleged suspicious dealers and purchases made from them. Despite the evidences furnished by the assessee, the AO held the purchases from the aforesaid dealers as bogus and estimated GP addition of 20%, the CIT(A) has restricted to 10%. The assessee has accepted the same and is not in appeal against the findings of CIT(A), although the assessee had furnished the documents to prove genuineness of the purchases.

4. Both sides heard, orders of the authorities below examined. During the course of assessment proceedings, the AO was not satisfied with the documentary evidences furnished by the assessee to prove genuineness of the purchases and the dealers. Since, the sales turnover declared by the assessee was accepted, the AO estimated GP on alleged unproved purchases @ 20%. In First Appellate proceedings, the CIT(A) restricted the GP on alleged bogus purchases to 10%. We are of considered view that estimation of suppressed profit margin on unproved purchases by the AO was on higher side. We concur with the findings of CIT(A), hence, the impugned order is upheld and appeal of the Revenue is dismissed, being devoid of any merit.

Order pronounced in the open court on **Friday**, the **30<sup>th</sup>** day of July, 2021.

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई/Mumbai, दिनांक/Dated: 30/07/2021

SK, PS

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

**प्रतिलिपि अग्रेषित Copy 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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**