

आयकर अपीलिय 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. 5790/मुं/2019 (नि.व.2011-12)
ITA NO.5790/MUM/2019 (A.Y.2011-12)

ITO-32(1)(4),
Room No. 706, 7th Floor,
Kautilya Bhavan,
Bandra Kurla Complex,
Bandra(E), Mumbai-400051.

..... अपीलार्थी /Appellant

बनाम Vs.

Shri Deepak Kantilal Shah,
402, Gpoal Puri, N.R. Daulat Nagar,
S. V. Road, Borivali (E),
Mumbai-400066.

PAN: **ASAPS9234L**

..... प्रतिवादी /Respondent

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

प्रतिवादी द्वारा/Respondent by : Sh. Anil Thakrar

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 07.05.2019 for the Assessment Year 2011-12.

2. Sh. Sanjay J. Sethi representing the Department submitted that during the period relevant to Assessment Year (AY) under appeal, the assessee had obtained bogus purchase bills amounting to Rs. 51,31,646/- from five 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 suspicious dealers. The Assessing Officer (AO) after considering the entire facts estimated Gross Profit (GP) @ 12.5% on bogus purchases and made addition of Rs. 6,41,456/-. In first appellate proceedings, the CIT(A) restricted the addition to 8% of the bogus purchases. The Id. DR prayed for restoring the findings of AO.

3. Sh. Anil Thakrar appearing on behalf of the assessee submitted that the CIT(A) has restricted the addition to 8% by placing reliance on the order of Tribunal in assessee's own case in ITA No. 2405/Mum/2017 and 2406/Mum/2017 for AY 2009-10 & 2010-11, respectively decided on 07.06.2017. The Id. Authorized Representative (AR) pointed that the nature of transactions and manner of disallowance in the impugned AY are identical. The Id. AR prayed for confirming the findings of CIT(A) and dismissing the appeal by Revenue.

4. Both sides heard, orders of authorities below examined. We find that the CIT(A) has restricted the disallowance in respect of bogus purchases to 8% by following the order of co-ordinate bench in assessee's own case for preceding AYs in ITA No. 2405 & 2406 /Mum/2017 (supra). Both sides are

unanimous in stating that the facts in the impugned AY are identical to the facts in the preceding AYs adjudicated by the Tribunal. The CIT(A) has granted partial relief to the assessee by following the Tribunal order in assessee's own case. We see no infirmity in the impugned order, hence, the same is upheld and appeal of the Revenue is dismissed, sans merit.

Order pronounced in the open court on **Friday**, the **30th** 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