

आयकर अपीलीय अधिकरण “एक-सदस्यमामला” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI

माननीय श्री छल्ला नागेन्द्र प्रसाद, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI C.N. PRASAD, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

1. आयकरअपील सं./ I.T.A. No. 1047/Mum/2020
 (निर्धारण वर्ष / Assessment Year: 2009-10)

Raju & Raju Electronics Pvt. Ltd. Dongre Building, 384, Dr. D. B. Marg, Lamington Road, Mumbai-400 007	बनाम/ Vs.	ITO Ward-5(3)(1), R. No. 21, 3 rd floor B-Wing, Mittal Court, Nariman Point Mumbai-400 021
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AABCR-6589-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Zakirhusen M. Kapasi, Ld. AR
Revenue by	:	Ms. Smita Varma– Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	02/09/2021
घोषणा की तारीख / Date of Pronouncement	:	02/09/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for AY 2009-10 arises out of the order of Ld. Commissioner of Income Tax (Appeals)-10 Mumbai [CIT(A)] dated 27/11/2019 in the matter of assessment framed by Ld. Assessing Officer (AO) u/s 143(3) r.w.s. 147 on 26/11/2014. The sole subject matter of appeal is estimation of addition on account of alleged bogus purchases.

2. Having heard rival submissions and after perusal of material on record, our adjudication would be as given in succeeding paragraphs. The assessee being resident corporate assessee is stated to be engaged in trading of electronic items.
3. The case was reopened pursuant to receipt of certain information from Sales Tax Department, Maharashtra on the basis of which it was alleged that the assessee made suspicious purchases of Rs.5.94 Lacs from 2 entities as detailed in para 4 of the order. Notices issued u/s 133(6) to these suppliers did not elicit any satisfactory response. The assessee furnished copies of purchase invoices, sales invoices & bank statements etc. However, since the assessee could not prove the movement of goods and also could not produce any of the suppliers for confirmation of transactions, these purchases were disallowed and added back to assessee's income.
4. The Ld. CIT(A) noted that the assessee could not prove the genuineness of the expenditure and therefore, the additions were to be upheld. Aggrieved, the assessee is in further appeal before us.
5. It could be seen that the assessee was a trader and therefore, there could be no sales without actual purchase of material. The assessee was in possession of purchase invoices and the payment to the suppliers was through banking channels. The assessee also proved the disposal of purchased material during assessment proceedings. Therefore, it could be presumed that the goods were procured from grey market whereas the bills were procured from these suppliers. Therefore, to plug the leakage of revenue, we restrict the addition to the extent of 12.5% of disputed purchases of Rs.5,94,698/ which comes to Rs.74,337/-. The balance addition stand deleted.

6. The appeal stand partly allowed.

Order pronounced on 02nd September, 2021.

Sd/-

(C. N. Prasad)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 02/09/2021
Sr.PS, Dhananjay

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.