

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.6998/M/2019
Assessment Year: 2009-10**

M/s. Sunrise Corporation, A-22, Ground Floor, Ghanshyam Industrial Estate, Off. Veera Desai Road, Andheri (West), Mumbai - 400 053 PAN: AAAFS4954M	Vs.	Income Tax Officer- 17(3)(4), Aayakar Bhavan, Room No.111, 1 st Floor, Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Ms. Smita Verma, D.R.

Date of Hearing : 23.08.2021
Date of Pronouncement : 14.09.2021

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 07.06.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2009-10.

2. At the time of hearing when the case was called for hearing, neither assessee nor his authorised representative was present to attend the hearing nor any application for adjournment was filed. Therefore, we are deciding the appeal of the Revenue after hearing the Ld. D.R. and after considering the merits of the case.

3. The only issue raised by the assessee is against the order of Ld. CIT(A) confirming the addition to 20.77% of the bogus purchases as made by the AO.

4. The facts in brief are that the assessee filed the return of income on 24.09.2009 declaring total income of Rs.5,81,122/- which was processed under section 143(1) of the Act. The case of the assessee was thereafter reopened by the AO after receipt of information from DGIT (Inv.), Mumbai that assessee is beneficiary of hawala purchase entries to the extent of Rs.67,35,253/- and accordingly the notice under section 148 of the Act was issued on 10.03.2014. The AO called for various details and information from the assessee from time to time during the course of assessment proceedings which were duly filed before the AO. The AO finally rejected the contentions of the assessee and treated the purchases as non genuine thereby making an addition of Rs.13,98,912/-, being 20.77% of the purchases, to the income of the assessee by framing assessment under section 143(3) read with section 147 of the Act dated 23.03.2015.

5. In the appellate proceedings, the Ld. CIT(A) dismissed the appeal of the assessee by confirming the order of AO on the ground that the purchases could not be verified.

6. After hearing the Ld. D.R. and perusing the material on record, we observe that Ld. CIT(A) has simply affirmed and upheld the order on the ground that the purchases made by the assessee remained unverified. We note that AO applied a rate of 20.77% on the basis of GP declared by the assessee. In our opinion the addition as sustained by the ld CIT(A) is excessive

and on the higher side as it would result into unrealistic GP rate of the assessee. We note that the co-ordinate benches of the Tribunal have been taking a consistent view that in case of bogus purchases only a GP rate ranging between 2% to 12.5% whereas the Ld. CIT(A) has assessed the income @ 20.77% of the bogus purchases. Therefore we set aside the decision of ld CIT(A) and direct the AO to apply a rate of 12.5% of the total purchases.

7. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 14.09.2021.

**Sd/-
(Mahavir Singh)
VICE PRESIDENT**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 14.09.2021.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.