

आयकर अपीलीय अधिकरण
मुंबई पीठ "एस एम सी", मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 1194/मुं/2020 (नि.व 2015-16)
ITA NO.1194/MUM/2020(A.Y 2015-16)

M/s. KYP Power Source And Solutions Pvt. Ltd.,
C/o.Rajkumar Jaju,
E/302, Ashok Nagar, Vazira Naka,
Borivali (W), Mumbai 400 091

PAN-AADCK-9893-K

..... अपीलार्थी /Appellant

बनाम Vs.

ITO -12(1)(3),
Room No.148, 1st Floor,
Aaykar Bhavan, M.K.Road,
Mumbai – 400 020

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Prakash Jhunjunwala

प्रतिवादी द्वारा/Respondent by : Ms. Smita Verma

सुनवाई की तिथि/ Date of hearing : 08/09/2021

घोषणा की तिथि/ Date of pronouncement : 08/09/2021

आदेश/ ORDER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals) -20, Mumbai [in short 'the CIT(A)] dated 06/12/2019 for the assessment year 2015-16.

2. Shri Prakash Jhunjunwala appearing on behalf of the assessee submitted at the outset that in this appeal the assessee has assailed an ex-parte order passed by the CIT(A). The Id. Authorized Representative of the assessee submitted that the only reason for making addition by the Assessing Officer is that the notices issued u/s 133(6) of the Income Tax Act, 1961 (in short ' the Act') were not responded by

the parties from whom the assessee had made purchases. During assessment proceedings, the assessee had furnished various documents including PAN details, purchase bills, ledger accounts, confirmations from the respective parties to prove genuineness of the vendors and the purchases. The Assessing Officer without considering the same made addition of the entire unproved purchases. The Id. Authorized Representative of the assessee further pointed that there is discrepancy in the dates mentioned in the assessment order. In para 4.7 of the order the Assessing Officer has mentioned that assessee has submitted copy of ledger account through mail on 27/12/2017, whereas the assessment order has been passed on 22/12/2017. The Id. Authorized Representative of the assessee further submitted that the assessee has furnished all the relevant documents before the CIT(A), however, the assessee could not attend the proceedings before the First Appellate Authority as no notice was ever received by the assessee. The Id. Authorized Representative of the assessee submitted that the assessee has a prima-facie good case in its favour. The assessee is well aware of the fact that it would not gain by not appearing before the CIT(A). The Id. Authorized Representative of the assessee prayed that if an opportunity is granted to present the case before the CIT(A), the assessee would be able to substantiate its contentions alongwith documentary evidences, which are part of record.

3. Per contra, Ms. Smita Verma, representing the Department vehemently defended the impugned order. The Id. Departmental Representative submitted that the CIT(A) has given several notices to the assessee which were duly served, however, despite sufficient opportunity the assessee failed to appear before the CIT(A).

4. Both sides heard, orders of authorities below examined. The CIT(A) in an ex-parte proceedings have confirmed the addition made by the Assessing Officer. A perusal of the impugned order shows that the CIT(A) had issued notice to the assessee on five occasions and all the said notices were duly purportedly served on

the assessee. Without commenting on the merits of the addition, in the interest of justice I deem it appropriate to restore this appeal back to the file of CIT(A) for denovo adjudication after affording reasonable opportunity of hearing to the assessee, in accordance with law. The assessee is directed to appear before the CIT(A) upon service of notice and co-operate in the proceedings. The impugned order is set-aside and appeal by the assessee is allowed for statistical purpose.

Order pronounced in the open Court on Wednesday, the 8th day of September, 2021

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated 08/09/2021

Vm, Sr. PS (O/S)

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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai

	Details	Date	Initials	Designation
1	Draft dictated/directly typed on computer	08/09/2021		Sr.PS/PS
2	Draft Placed before author	08/09/2021		Sr.PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS/PS
7.	File sent to the Bench Clerk			Sr.PS/PS
8	Date on which the file goes to the Head clerk			
9	Date of Dispatch of order			