

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. 1173/मुं/2020 (नि.व 2010-11)
ITA NO.1173/MUM/2020(A.Y 2010-11)

M/s. V.N.Exports,
1306, Prasad Chambers,
Tata Road-3, Opera House,
Mumbai 400 004.

PAN-AACFV-4623-L

..... अपीलार्थी /Appellant

बनाम Vs.

The Asstt.Commissioner of Income Tax-19(3),
Matru Mandir, Tardeo Road,
Mumbai – 400 007

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Rahul Sarda

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 an ex-parte order of Commissioner of Income Tax (Appeals) -30, Mumbai [in short 'the CIT(A)] dated 29/11/2019 for the assessment year 2010-11.

2. Shri Rahul Sarda appearing on behalf of the assessee submitted that the CIT(A) without affording opportunity of hearing to the assessee has enhanced the disallowance made in respect of alleged bogus purchases. The Id. Authorized Representative of the assessee submitted that assessment for assessment year 2010-11 was reopened on the ground that assessee has allegedly obtained

accommodation entries from the concern belonging to Bhanwarlal Jain Group. The Assessing Officer estimated suppressed profit margin @5% and made addition of Rs.30,97,074/-. Aggrieved by the assessment order dated 23/03/2016 passed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short ' the Act'), the assessee filed appeal before the CIT(A). The CIT(A) allegedly issued notice of hearing on 16/09/2019 and 03/10/2019, however, none of the aforesaid notices were ever received by the assessee / appellant. The Id. Authorized Representative of the assessee submitted that the assessee has prima-facie good case in its favour and has sufficient evidences to prove genuineness of the purchases. The Id. Authorized Representative of the assessee prayed that an opportunity may be granted to present the case before the CIT(A).

3. On the other hand, Ms. Smita Verma representing the Department vehemently defended the impugned order. The Id. Departmental Representative submitted that the CIT(A) had issued notice to the assessee on the address furnished in Form No.35, however, the assessee failed to appear before the First Appellate Authority.

4. Both sides heard, orders of authorities below examined. A perusal of the impugned order shows that the notice of hearing of the appeal was issued by the CIT(A) on two occasions i.e. on 16/09/2019 and 03/10/2019. However, it is not emanating from the order whether the said notices were duly served on the assessee or not. The requirement of law is that notices should be served on the assessee. Be that as it may, without commenting on merits of addition, 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 cooperate in the proceedings. The impugned order is set-aside and the appeal by the assessee is allowed for statistical purpose.

5. In the result, 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