



IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA no.2937/Mum./2019
(Assessment Year : 2009-10)

Asstt. Commissioner of Income Tax
Circle-7(3)(2), Mumbai

..... Appellant

v/s

M/s. Printline Reproductions P. Ltd.
134, Pragati Industrial Estate
N.M. Joshi Marg, Lower Parel
Mumbai 400 001 PAN – AAACP6291K

..... Respondent

Revenue by : Shri Bharat Andhale
Assessee by : None

Date of Hearing – 28.07.2021

Date of Order – 15.9.21

ORDER

PER S. RIFAUR RAHMAN, A.M.

The present appeal has been filed by the Revenue challenging the order dated 27th February 2019, passed by the learned Commissioner of Income Tax (Appeals)-13, Mumbai, pertaining to the assessment year 2009-10.

2. When the case was called for hearing, none appeared on behalf of the respondent assessee. There is no application for adjournment either. Therefore, we proceed to dispose off the appeal ex-parte qua

the respondent assessee after hearing the learned Departmental Representative and on the basis of material on record.

3. The issue raised in the present appeal relates to the relief granted by learned Commissioner (Appeals) in respect of addition of ₹ 1,12,996, made on account of non-genuine purchases under section 69C of the Income Tax Act, 1961 (for short "*the Act*").

4. Brief facts are, the assessee has filed its return of income on 31st August 2009, declaring total loss at ₹ (58,57,410) and the Assessing Officer completed the assessment under section 143(3) of the Act determining a total loss of ₹ (58,57,410). Subsequently, on the basis of information received from the DGIT (Inv.), Sales Tax Department, Government of Maharashtra, indicating that the assessee is a beneficiary of accommodation entries provided by hawala operators through bogus purchase bills, the Assessing Officer re-opened the assessment under section 147 of the Act. During the assessment proceedings, the Assessing Officer called upon the assessee to prove the genuineness of purchases worth ₹ 1,12,996, claimed to have been made during the year from M/s Mahavir Traders. Further, to independently verify the genuineness of such purchases, the Assessing Officer issued notices under section 133(6) of the Act to the selling dealers calling for certain information. However, all such notices

returned back un-served. Further, the Assessing Officer was not satisfied with the evidences furnished by the assessee to establish the genuineness of purchases. Thus, ultimately, the Assessing Officer disallowed the entire amount of ₹ 1,12,996, and added it to the income of the assessee.

5. After considering the submissions of the assessee in the context of facts and material on record, the learned CIT(A) deleted the disallowance on account of bogus purchase made by the Assessing Officer by observing as follows:-

6. Before me, the learned Departmental Representative strongly relied upon the observations of the Assessing Officer and submitted that the assessee having failed to prove the genuineness of purchases, the entire amount representing such purchases has to be added.

7. Having considered the submissions of the learned Departmental Representative, we find that, though, the assessee may not have been able to prove the genuineness of purchases from the declared source since the third party work contractor purchased these goods. However, it is a fact on record that the Assessing Officer has not disputed the above fact and the assessee has made payment to the party based on the advise of the contractor. Therefore, it goes to prove that the assessee must have purchased goods on the advise of the contractor.

In such circumstances, it is observed that the electrical goods purchased by the assessee are not for its own business transaction. As these purchases are not relevant for the assessee's business, therefore, keeping in view the above facts on record, the decision of the learned CIT(A) to delete the entire amount of ₹ 1,12,996, on account of alleged bogus purchase is fair and reasonable requiring no interference from this forum. Accordingly, we uphold the order of the learned CIT(A) by dismissing the grounds raised by the Revenue.

8. In the result, Revenue's appeal stands dismissed.

Order pronounced in the open Court on 15.9.21

**Sd/-
MAHAVIR SINGH
VICE PRESIDENT**

**Sd/-
S. RIFAUR RAHMAN
ACCOUNTANT MEMBER**

MUMBAI, DATED: 15.9.21

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Assistant Registrar
ITAT, Mumbai

		Date	Initial	
1.	Dictated on mobile	13.09.2020	}	Sr.PS
2.	Draft placed before author	13.09.2020		Sr.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	16.09.2020	}	Sr.PS
6.	Date of pronouncement	15.09.2020		Sr.PS
7.	File sent to the Bench Clerk	16.09.2020		Sr.PS
8.	Date on which file goes to the Head Clerk			
9.	Date of dispatch of Order			