

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)
"SMC" BENCH, MUMBAI**

BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER

ITA NO. 1303/MUM/2020 (A.Y: 2009-10)

ACIT – 22(1) Room No. 322, 3 rd Floor Piramal Chambers, Lalbaug Mumbai – 400 012	v.	M/s. Harshad Arts 122, Adhyaru Industrial Estate Sun Mill Compound Mumbai -400013 PAN: AAAFH0243C
(Appellant)		(Respondent)

Assessee by	:	None
Department by		Shri Sanjay J. Sethi
Date of Hearing	:	13.09.2021
Date of Pronouncement	:	13.09.2021

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the revenue against order of the Learned Commissioner of Income Tax (Appeals) – 33, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 17.12.2019 for the A.Y. 2009-10 in restricting the disallowance to 25% of purchases of ₹.1,60,054/- as against the entire purchases disallowed as non-genuine/bogus by the Assessing Officer.

2. Briefly stated the facts are that, the assessee engaged in the business of printing press, filed return of income for the A.Y.2009-10 on 30.09.2009 declaring income of ₹.4,24,384/- and the return was processed u/s. 143(1) of the Act. Subsequently, Assessing Officer received information from the Sales Tax Department, Mumbai about the accommodation entries provided by various dealers and assessee was also one of the beneficiary from those dealers. The assessment was reopened U/s. 147 of the Act based on the information received from Sales Tax Department, Mumbai, that the assessee has availed accommodation entries from various parties who are said to be providing accommodation entries without there being transportation of any goods. In the reassessment proceedings, the assessee was required to prove the genuineness of the purchases made from M/s. Padmavati Enterprises. In reply, Assessee vide letter dated 11.03.2015 furnished copies of invoices and ledger of the purchases and submitted that the transactions are genuine. Assessee further submitted that the payments are made through account payee cheques as such contended that all the purchases are genuine.

3. Not convinced with the submissions of the assessee the Assessing Officer treated the purchases as non-genuine and he was of the opinion

that assessee had obtained only accommodation entries without there being any transportation of materials and the assessee might have made purchases in the gray market. It is the finding of the Assessing Officer that the assessee not been able to prove the direct correlation between the purchases made and corresponding sales. Therefore, Assessing Officer treated purchases of ₹.1,60,054/- as non-genuine and added to the income of the assessee. On appeal the Ld.CIT(A) considering the evidences and various submissions of the assessee restricted the disallowance to the extent 25% of the non-genuine purchases.

4. In spite of issue of notice none appeared on behalf of the assessee nor any adjournment was sought. Therefore, I proceed to dispose of this appeal on hearing Ld.DR on merits.

5. Ld. DR vehemently supported the orders of the Assessing Officer.

6. Heard Ld.DR, perused the orders of the authorities below. On a perusal of the order of the Ld.CIT(A), I find that the Ld.CIT(A) considered this aspect of the matter elaborately with reference to the submissions of the assessee and the averments in the Assessment Order and restricted the disallowance to 25% of the non-genuine purchases of ₹.1,60,054/-, while holding so, the Ld.CIT(A) observed as under: -

"6. I have carefully gone through the findings given in the Assessment Order and the submission of the appellant on the issue and material available on record. The AO had information from the Sales Tax Department about bogus nature of purchase transaction from the said party. However, it seems from perusal of the assessment order that the AO did not conduct any enquiry u/s133(6). The appellant also did not produce the party for verification. In view of above, I am of the considered opinion that 100% addition of bogus purchase amount is not justified and only profit element embedded in such transactions need to be added in the hands of the assessee. Considering the entirety of facts, I am of the view that disallowance of 25% of bogus purchase amount will be the most reasonable and fair disallowance in this case. Therefore, the disallowance of 25% of Rs. 1,60,054/- = Rs. 40,014/- is hereby sustained and balance disallowance of Rs. 1,20,040/- is hereby dismissed.

7. In the result, appeal of the appellant for A.Y.2009-10 is partly allowed."

7. On a careful perusal of the order of the Ld.CIT(A) and the reasons given therein, I do not find any infirmity in the order passed by the Ld.CIT(A) in restricting the addition/disallowance to the extent of 25% of the purchases. Grounds raised by the revenue are dismissed.
8. In the result, appeal of the Revenue is dismissed.

Order pronounced in the virtual court on 13.09.2021.

Sd
(C.N. PRASAD)
JUDICIAL MEMBER
Mumbai / Dated 13/09/2021
Giridhar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum