

**आयकर अपीलीय अधिकरण “SMC” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI**

श्री महावीर सिंह, उपाध्यक्ष के समक्ष ।  
BEFORE SRI MAHAVIR SINGH, VICE PRESIDENT

**आयकर अपील सं./ ITA No. 6822/Mum/2019**  
(निर्धारण वर्ष / Assessment Year 2010-11)

Shri Mitesh Chimanlal Savla 15/16, Divya Mahal, 2 <sup>nd</sup> Floor Gyan Mandir Road Dadar(W) Mumbai-400 028	Vs.	The Income Tax Officer, Ward- 21(2)(3) Room No.105, Piramal Chambers, Lalbaug, Parel Mumbai-400 012
<b>(अपीलार्थी / Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
<b>स्थायी लेखा सं. / PAN No. AMWPS2822A</b>		

अपीलार्थी की ओर से / <b>Appellant by</b>	:	Shri Satyaprakash Singh, AR
प्रत्यर्थी की ओर से / <b>Respondent by</b>	:	Shri Vaibhav Jain, DR

सुनवाई की तारीख / <b>Date of hearing:</b>	27.10.2021
घोषणा की तारीख / <b>Date of pronouncement :</b>	27.10.2021

**आदेश / ORDER**

महावीर सिंह, उपाध्यक्ष के द्वारा /  
**PER MAHAVIR SINGH, VP:**

This appeal of the assessee is arising out of order of the Commissioner of Income Tax (Appeals)]-33, Mumbai [in short CIT(A)], in appeal No. CIT(A)-33,Mumbai/11589/2016-17 vide dated 15.02.2016. The Assessment was framed by the Income Tax Officer, Ward-21(2)(3) Mumbai (in short ITO/ AO) for the A.Y. 2010-11 vide order dated 15.02.2016 under section 143(3) read with section 147 of the Income-tax Act, 1961 (hereinafter 'the Act').

2. The only issue in this appeal of assessee, as regards to the order of Ld.CIT(A) confirming the action of the AO in disallowing the bogus purchases by applying profit rate of 25% at Rs.



27,26,020/-. For this, assessee has raised following ground NO.2.

*"On facts and circumstances of the case and in law, the Hon'ble CIT[A] has erred in confirming the disallowance of Rs. 27,26,020/- in respect of so-called bogus purchases."*

3. I have heard rival contentions and gone through facts and circumstances of the case. The brief facts are that the AO received information from the DGIT (Investigation), Mumbai that the assessee is engaged in taking accommodation entries from the hawala operators, who are providing bogus bills to various parties. As per the information, the assessee has obtained bogus purchases to the extent of Rs. 95,40,750/- and the details are as under:-

<i>Sr.No.</i>	<i>Name of the party</i>	<i>Amount(Rs.)</i>
1	<i>Pioneer Trading Corporation</i>	<i>50,440</i>
2	<i>Real Traders</i>	<i>5,54,674</i>
3	<i>G.M.International</i>	<i>11,39,805</i>
4	<i>Rumggt Enterprises</i>	<i>8,30,966</i>
5	<i>N.K.Trading Co.</i>	<i>18,93,273</i>
6	<i>J.K.Agency</i>	<i>50,71,557</i>
		<i>95,40,715</i>

4. The AO considering the facts and circumstances restricted the profit rate @25% of the bogus purchases, because sales effected are not in dispute. Thereby, the AO disallowed the quantum of profit element amounting to Rs. 27,26,020/-. Aggrieved assessee preferred appeal before CIT(A). The Ld.CIT(A) confirmed the action. Aggrieved now assessee is in appeal before us.

5. I have heard rival contentions and gone through facts and circumstances of the case. I noted that first of all the bogus



purchases are to the extent of Rs. 95,40,715/- and after applying profit rate of 25% there cannot be addition of Rs. 27,26,020/-, because the computation made by AO is wrong. Even the Ld.CIT(A) has not gone into the details despite the fact that assessee filed complete details in respect of purchase and sales bills, stock register, details of bank statement i.e a payment made through account pay cheque to the parties, sales and purchases bills, but could not produce the party for examination etc. The assessee also cited the case law of Hon'ble Gujarat High Court in the case of CIT vs. Simit P.Sheth (2013) (Gujarat), 38 taxmann.com 385, wherein Hon'ble Gujarat High Court has considered profit element @ 12.5% of the bogus purchase. Hence, respectfully following the Hon'ble Gujarat High Court, I also restrict the profit rate @ 12.5% of the bogus purchases and direct the AO accordingly. The total bogus purchases is to be considered as Rs. 95,40,715/ and on this, the AO will apply profit rate @12.5% and make disallowances accordingly.

**6. In the Result, the appeal of assessee is partly allowed.**

Order pronounced in the open court on 27.10.2021.

Sd/-  
(महावीर सिंह /MAHAVIR SINGH)  
(उपाध्यक्ष / VICE PRESIDENT)

मुंबई, दिनांक/ Mumbai, Dated: 27 .10.2021  
Kasarla Thirumalesh, Sr.PS

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.



ITA No. 6822/Mum/2019  
Mr. Mitesh Chimanlal Savla AY 10-11

3. आयकर आयुक्त (अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asth. Registrar)/ व. निजी सचिव  
(Sr.PS)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai