

आयकर अपीलीय अधिकरण
मुंबई पीठ "एस एम सी", मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 485/मुं/2020 (नि.व.2010-11)
ITA NO.485/MUM/2020 (A.Y.2010-11)

ITO-15(3)(3),
Room No. 452,
Aayakar Bhavan,
Mumbai-400020.

..... अपीलार्थी /Appellant

बनाम Vs.

M/s S.K. Mechanical & Electrical Works Pvt. Ltd.
Nahurgaon, Mulund West,
Mumbai-400078.

PAN: **AAICS8894F**

..... प्रतिवादी /Respondent

अपीलार्थी द्वारा/ Appellant by : Sh. Sanjay J. Sethi

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 30/06/2021

घोषणा की तिथि/ Date of pronouncement : 20/09/2021

आदेश / ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-24, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 23.10.2019 for the Assessment Years (AY) 2010-11.

2. The brief facts of the case as emanating from records are: The assessee/respondent is in the business of undertaking mechanical works. The assessment for Assessment Year (AY) 2010-11 in the case of assessee was re-

opened on the ground that the assessee has indulged in obtaining bogus purchase bills from various (six) hawala dealers during the period relevant to assessment year under appeal. During assessment proceedings, there was no representation from assessee's side, despite repeated notices, therefore, the Assessing Officer (AO) invoked provisions of section 144 of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'] and completed the assessment. Since, genuineness of the purchases and the dealers were not proved, the AO disallowed 50% of the total unproved purchases and made addition of Rs. 25,11,431/- . Against the assessment order dated 20.12.2017 passed under section 144 r.w. sec. 147 of the Act, the assessee filed appeal before the CIT(A). The CIT(A) after examining the facts and documents on record granted part relief to the assessee by restricting disallowance to 25% of the alleged bogus purchases. Now, the Revenue is in appeal against the relief granted by the CIT(A).

3. Sh. Sanjay J. Sethi representing the Department vehemently defended the assessment order. The Id. DR submitted that despite several notices, the assessee failed to appear before the AO, hence, the AO was constrained to complete assessment under section 144 of the Act. Even before the CIT(A), initially the assessee was non co-operative and did not comply with the notice. The assessee has failed to substantiate genuineness of the dealers and the purchases made from them. The Id. AR prayed for reversing the findings of CIT(A) and upholding the assessment order.

4. Submissions made by Id. DR heard, orders of the authorities below examined. Undisputedly, the assessee failed to prove authenticity of the dealers and purchases made from the said dealers. At the same time, it is

observed that the AO has accepted the turnover declared by the assessee. Estimation of suppressed profit margin on bogus purchases by the AO is very much on higher side, the CIT(A) in a fair and justified manner has restricted the profit margin on bogus purchases to 25%. I find no infirmity in the impugned order, hence, the same is upheld and the appeal of Revenue is dismissed, sans merit.

Order pronounced in the open court on **Monday**, the **20th** day of September, 2021.

Sd/-
(VIKAS AWASTHY)
न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 20/09/2021

SK, PS

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.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)
ITAT, Mumbai