

3. The only ground which survives in the appeal for the A.Y. 2009-10 is against the confirmation of addition of Rs.13,13,869/- on account of bogus purchases. The factual matrix of the case is that the assessee was found to have received bogus purchase bills amounting to Rs.13,13,869/-. After initiating the re-assessment proceedings, the AO made addition for the said sum. The Id. CIT(A) echoed the same. Aggrieved thereby, the assessee has approached the Tribunal.

4. I have heard both the sides and gone through the relevant material on record. It is a case where the assessee is engaged in the business of trading. The invoices relating to Hawala purchases represent the goods which were allegedly purchased and sold by the assessee. The AO has made addition at 100% of the invoice value of Hawala purchases which has been confirmed at the same level. The point raised herein is against the addition on account of profit on hawala purchases. The issue of bogus purchases and the consequential addition came up for consideration before the Hon'ble Bombay High Court in *Pr. CIT & Ors. vs. Mohammad Haji Adam & Co. & Ors. (2019) 104 CCH 0391 MumHC*. The Hon'ble jurisdictional High Court has

held in this case that no *ad hoc* addition of bogus purchases is warranted. Rather the addition should be made to the extent of difference between the gross profit rate on genuine purchases and gross profit rate on hawala purchases.

5. Firstly, it is found as an admitted position that the hawala purchases in the extant case were utilized in the trading business and not consumed. It is further clear that the assessee had properly accounted for the purchases so made against hawala transactions. In other words, the actual purchases made against the depicted hawala purchases have been either been sold out or were available in closing stock. Certainly, addition on account of hawala purchases is required to be made, but, respectfully following the *ratio* in the case of *Mohammad Haji Adam (supra)*, the quantum of addition towards bogus purchases, needs to be worked out by considering similar purchases made by the assessee from genuine transactions and thereafter finding out the excess amount of purchases recorded through hawala transactions. The differential percentage between the two prices is directed to be applied to the amount of Hawala purchases for making addition on this score. I, therefore, set aside the

impugned order and remit the matter to the file of the AO for working out the correct amount of addition in terms of the above observations after allowing a reasonable opportunity of hearing to the assessee.

6. The facts and circumstances of the other two appeals are *mutatis mutandis* similar to the assessment year 2009-10. For the assessment year 2010-11, the amount of bogus purchases stands at 19,21,127/- and for the assessment year 2011-12 at Rs.88,640/-. Following the view taken hereinabove, the issue for these two years is also remitted to the file of the AO for working out the correct amount of addition in accordance with the directions given for the assessment year 2009-10.

7. In the result, all the appeals are partly allowed for statistical purposes.

Order pronounced in the Open Court on 18th November, 2021.

Sd/-
(R.S.SYAL)
उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 18th November, 2021
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) /
The CIT (Appeals)-1, Pune
4. The Pr. CIT-1, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC" /
DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,**// True Copy //**Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	18-11-2021	Sr.PS
2.	Draft placed before author	18-11-2021	Sr.PS
3.	Draft proposed & placed before the second member	--	JM
4.	Draft discussed/approved by Second Member.	--	JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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