

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

BEFORE SHRI SHAMIM YAHYA, AM AND SHRI AMARJIT SINGH, JM

(Hearing through Video Conferencing Mode)

आयकर अपील सं/ I.T.A. No.634/Mum/2020

(निर्धारण वर्ष / Assessment Year: 2010-11)

ACIT-22(1) Room No.322, 3 rd Floor, Piramal Chambers, Lalbaug, Mumbai-400012.	बनाम/ Vs.	M/s. Amolraj Printers, 352, A to Z Industrial Estate, Ganpatrao Kadam Marg, Lower Parel, Mumbai- 400013.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAFA1576F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Revenue by:	Shri Brajendra Kumar (DR)	
Assessee by:	Shri Vimal Punmiya (AR)	

सुनवाई की तारीख / Date of Hearing: 10/08/2021

घोषणा की तारीख /Date of Pronouncement: 27/10/2021

आदेश / O R D E R

PER AMARJIT SINGH, JM:

The revenue has filed the present appeal against the order dated 15.11.2019 passed by the Commissioner of Income Tax (Appeals) -33 Mumbai [hereinafter referred to as the "CIT(A)"] relevant to the A.Y.2010-11.

2. The revenue has raised the following grounds: -

"1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in restricting addition made by the A.O amounting Rs.3,31,282/- i.e. 100% of total purchase to 25%, ignoring the fact that the action of the Assessing Officer was based on credible information received from the Maharashtra Sales Tax Department and that the assessee during the course of assessment proceedings, failed to prove the genuineness of the purchase transactions.



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2. *On the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in estimating addition on account of bogus purchase to 25% of such purchases as against the estimation by the AO of 100% of bogus purchases without appreciating the fact that the assessee had failed to establish the genuineness of the alleged parties from whom purchases is claimed to have been made during the year.*

3. *On the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in estimating addition on account of bogus purchase to 25% of such purchases as against the estimation by the AO of 100% of bogus purchases without appreciating the fact that the assessee could neither produce the delivery challans or the transport bills/invoices nor could produce the alleged parties from whom purchases is claimed to have been made during the year.*

4. *On the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in estimating addition on account of bogus purchase to 25% of such purchases as against the estimation by the AO of 100% of bogus purchases without appreciating the fact that the Sales Tax Department as well as the DGIT (Inv.), Mumbai during their course of investigations found the alleged parties to be providing only accommodation/bogus purchase bills.*

5. *On the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in estimating addition on account of bogus purchase to 25% of such purchases as against the estimation by the AO of 100% of bogus purchases without appreciating the ratio of the decision of the Hon'ble Supreme Court in the case of N.K.*



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Proteins Ltd., wherein the Court has held that when the purchases are from bogus suppliers, the entire purchases are liable to be disallowed.

6. *This case is filed because it is covered under the exception provided in para 10(e) of the CBDT's Circular No.3 of 2018 dated 11.07.2018 as amended vide F.No.279/ Misc. 142/2007-ITJ(Pt) dated 20.08.2018.*

7. *The appellant prays that the order of the CIT(A) on the above ground be reversed and that of the Assessing Officer be restored.*

8 *The appellant craves leave to amend or alter any ground or add a new ground which may be necessary."*

3. The brief facts of the case are that the case of the assessee was reopened by issuance of notice u/s 148 of the Act dated 18.03.2014 on the basis of the information received from the Maharashtra Sales Department in which it was conveyed that the assessee has taken the bogus purchase entry from M/s. A.P. Enterprises and M/s. Mayur Paper in sum of Rs.81,510/- & Rs.2049,772/- respectively. The total bogus purchase was to the tune of Rs.3,31,282/-. After the issuance of necessary notices u/s 143(2) & 142(1) of the Act, the AO raised the addition to the tune of Rs.3,31,282/-. Feeling aggrieved, the assessee filed an appeal before the CIT(A) who restricted the addition to the extent of 25% of the bogus purchase but the revenue was not satisfied, therefore, revenue has filed the present appeal before us.

4. All the issues are in connection with the restricting the addition to the extent of 25% of the bogus purchase by the CIT(A). The Ld. Representative of the Revenue has argued that there should be 100%



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addition of the bogus purchase but the CIT(A) has wrongly restricted the addition to the extent of 25% of the bogus purchase. However, on the other hand, the Ld. Representative of the assessee has argued that in similar circumstances, the Hon'ble ITAT has restricted the addition to the extent of 25% of the bogus purchase in the A.Y.2011-12 in the assessee's own case by virtue of order dated 13.07.2021, therefore, the same finding is applicable and accordingly the appeal of the revenue is liable to be dismissed. The copy of order dated 13.07.2021 bearing ITA. No.635/Mum/2020 for the A.Y.2011-12 is on the file in which the Hon'ble ITAT has raised the following:-

“6. Heard both sides, perused the orders of the authorities below. On a perusal of the order of the Ld.CIT(A), we 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 ₹.92,663/-, while holding so, the Ld. CIT(A) observed as under: -

“12. I have carefully gone through the findings given in the assessment order and the written submissions of the appellant on the issue and material available on record. As the facts and issue involved during the AY 2011-12 are same as in AY 2010- 11, my findings in appeal for AY 2010-11 is also applicable to the present appeal for Ay 2011-12. Therefore, I am of the view that 25% disallowance out of purchase of Rs. 92,663/-will meet the ends of justice. In view of above, disallowance @ 25% % of purchase of Rs. 92,6637- = Rs. 23,166/- is hereby sustained and balance



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disallowance being 75% of Rs.92,663/- = Rs.69,497/- is hereby deleted. The grounds of appeal on merits are 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, as the Ld.CIT(A) has followed the principle of consistency in restricting the disallowance to 25% of bogus purchases. Grounds raised by the revenue are dismissed.

5. On appraisal of the above mentioned finding, we noticed that the Hon'ble ITAT has restricted the addition to the extent of 25% of bogus purchase in the subsequent year i.e. 2011-12 in the assessee's own case (supra). The present year is for the A.Y.2010-11. The facts are quite similar and identical. The finding given in ITA. No.635/Mum/2020 for the A.Y.2011-12 dated 13.07.2021 mentioned above is quite applicable to the facts of the present case. Accordingly, the finding of the CIT(A) is quite justifiable to restrict the addition to the extent of 25% of the bogus purchase. Hence, we affirm the finding of the CIT(A) on all the issues and dismissed the appeal of the revenue.

6. In the result, the appeal filed by the revenue is hereby dismissed.

Order pronounced in the open court on 27/10/2021

Sd/-

(SHAMIM YAHYA)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 27/10/2021

Vijay Pal Singh (Sr. P.S.)

Sd/-

(AMARJIT SINGH)

न्यायिक सदस्य/JUDICIAL MEMBER



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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
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 / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**