

आयकर अपीलीय अधिकरण  
मुंबई पीठ "एस एम सी", मुंबई  
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
आअसं. 1064/मुं/2020 (नि.व 2012-13)  
ITA NO.1064/MUM/2020(A.Y 2012-13)

Zeenat Mohdkhalil Ansari,  
C/o. Mr. Rajkumar Jaju,  
E/302 Ashok Nagar, Vazira Naka,  
Borivali (W), Mumbai – 400 091

PAN: ADAPA-2934-J

..... अपीलार्थी /Appellant

बनाम Vs.

ITO 21(3)(5),  
Room No.117, Piramal Chambers,  
Lalbaug, Mumbai 400 012.

Mumbai 400 020

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Prakash Jhunjunwala

प्रतिवादी द्वारा/Respondent by : Shri Sanjay J. Sethi

सुनवाई की तिथि/ Date of hearing : 08/09/2021

घोषणा की तिथि/ Date of pronouncement : 03/12/2021

आदेश/ ORDER

This appeal by the assessee is directed against the order of Commissioner of Income Tax(Appeals)-33, Mumbai [ in short 'the CIT(A)'] dated 20/12/2020 for the Assessment Year 2012-13.

2. Shri Prakash Jhunjunwala appearing on behalf of the assessee submitted that the assessee is engaged in the business of export/local sale of ready made garments and fabric and is also doing job work. The assessee filed her return of income for the assessment year 2012-13 declaring total income of Rs.3,51,350/-. In

scrutiny assessment proceedings the Assessing Officer held that the assessee has made bogus purchases amounting to Rs.35,13,988/- from the following parties:

S.No.	Name of the party	Amount(Rs.)
1.	Pack Well	1,28,036
2.	Shree Ram Fab	1,20,086
3.	Sun Craft	1,62,065
4.	Sujay Poly Plast	84,173
5.	Sukanya Textiles	30,19,539
	Total	35,13,899

Further, the Assessing Officer raised doubt over the payments made to AQD Garments in respect of Clearing & Forwarding Expenses Rs.6,64,656/- and Labour Charges Rs.6,17,935/- aggregating to Rs.12,82,591/-. The Assessing Officer issued notice to the said parties however, the same were received back from Postal Authorities unserved. The assessee furnished various documents to substantiate genuineness of the purchases/ expenses, however, the Assessing Officer rejected the same and made disallowance of 25% of the alleged bogus purchases and the amount paid by the assessee to AQD Garments in respect of clearing and forwarding expenses and labour charges. Thus, the Assessing Officer made addition of Rs.11,99,123/-. Aggrieved by the assessment order dated 31/03/2015 passed u/s 143(3) of the Income Tax Act, 1961 ( in short 'the Act'), the assessee filed appeal before the CIT(A) . The First Appellate Authority after considering the submissions of the assessee and documents on record restricted the disallowance to Rs.5,99,561/- by estimating disallowance @12.5%. The Id. Authorized Representative for the assessee submitted that the authorities below have failed to take into consideration the confirmations from various parties (alleged accommodation entry providers) before the CIT(A) and Assessing Officer. The assessee had also furnished purchase bills, delivery challans and the bank statement. The assessee has declared G.P of 12.88% during the relevant period. Since, the assessee discharged its onus by furnishing all relevant documents, no addition on account of unproved purchases/expenses is called for. The Id. Authorized Representative for the assessee

prayed for deleting the entire addition on account of alleged bogus purchases/expenses.

3. Per contra, Shri Sanjay J. Sethi representing the Department vehemently defended the impugned order and prayed for dismissing appeal by the assessee. The Id.Departmental Representative submitted that assessee has failed to prove genuineness of the dealers and the purchases made from them. The notices issued to the dealers were received back unserved from the Postal Authorities.

4. Submissions made by rival sides heard, orders of authorities below examined. The solitary issue in the present appeal is the addition confirmed by the CIT(A) in respect of bogus purchases from suspicious dealers. And unproved clearing and forwarding expenses and labour charges. The Assessing Officer disallowed 25% of the bogus purchases /expenses. The CIT(A) restricted the same to 12.5%. Taking into consideration entire facts and documents on record, I am of considered view that disallowance @12.5% of alleged bogus purchases /expenses is on the higher side. To meet the ends of justice I deem it appropriate to restrict the disallowance to 5% of the unproved purchases/expenses. The appeal of assessee is partly accepted in the aforesaid terms.

6. In the result, appeal by assessee is partly allowed.

Order pronounced in the open Court on Friday the 3<sup>rd</sup> day of December, 2021

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated 03 /12/2021  
Vm, Sr. PS (O/S)

**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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**