

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C" MUMBAI**

**BEFORE SHRI VIKAS AWASTHY (JUDICIAL MEMBER) AND  
SHRI PRADIP KUMAR KEDIA (ACCOUNTANT MEMBER)**

**ITA No. 5928/MUM/2019  
Assessment Year: 2011-12**

ACIT-22(1),  
322, 3<sup>rd</sup> floor, Piramal Chambers,  
Lal Baug, Parel,  
Mumbai-400012.

M/s International Light & Craft 712,  
Linking Road, Bajaj Niwas, Khar  
**Vs.** (W), Mumbai-400052.

**Appellant**

**PAN No. AABFI 0411 J  
Respondent**

Revenue by : Mr. J. Saravanan, CIT-DR  
Assessee by : None

Date of Hearing : 24/01/2022  
Date of pronouncement : 24/01/2022

**ORDER**

**PER PRADIP KUMAR KEDIA, AM**

The captioned appeal has been filed at the instance of the Revenue against the order of the Commissioner of Income Tax (Appeals)-34, Mumbai dated 11.06.2019 arising from the assessment order dated 19.03.2015 passed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 concerning assessment year 2011-12.

2. The Revenue has raised following grounds of appeal are as under:

1. *Whether on the facts and in the circumstances of the case and in law the Ld. CIT(A) has erred in deletion of the addition to 100% of bogus*

*purchases as against addition made by the Assessing Officer misinterpreting the judgment in the case of M/s M.K. Protin Ltd. Vs CIT No. 769 of 2017 dated 16.01.2017 (SC) wherein the Hon'ble Supreme Court has decided the issue of the bogus purchase with a direction of making addition of entire amount of bogus purchase as income of the assessee and ignoring the fact that the assessee completely failed in substantiating the purchases made from Hawala Parties.*

2. *Whether on the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition of bogus purchase amounting Rs. 7,14,151/- from M/s. Suraj Enterprises and M/s. Dhruv Trading Co. as against 100% made by Assessing Officer, which is proved bogus in the independent enquiry carried out during course of assessment.*
3. *Whether on the facts and in the circumstances of the case and in law the Ld. CIT(A) failed to appreciate the fact that onus is one the assessee to explain and substantiate the genuineness and true nature of purchase transactions.*
4. *The appellant prays that appeal is being filed because it is covered under the exception provided in para 10(e) of the amended instruction no.-3 of 2018 dated 20.08.2018.*
5. *The appellant prays that the order of the CIT(A) on the above ground be reversed and that of the Assessing Officer be restored.*

3. As per its grounds of appeal, the assessee has essentially challenged the relief granted by the Ld. CIT(A) on account of alleged bogus purchases.

4. When the matter was called for hearing, the Ld. counsel for the assessee pointed out that the Assessing Officer made an addition on ₹7,14,151/- on account of bogus purchases made by the assessee from the suspicious/unproved suppliers. The Ld. CIT(A) in the first appeal, however has restricted the additions on account of impugned bogus purchases to the extent of 25% of the value instead of 100% disallowed by the Assessing Officer. The Ld. DR for the Revenue accordingly sought appropriate directions in this regard as claimed for the grounds of appeal. The Ld. DR however, in the same vein fairly submitted that identical issue cropped up in assessment year 2009-10 as well which was carried to the ITAT. The Co-ordinate Bench of the Tribunal in

ITA No. 5927/M/2019 order dated 22.06.2021. The ITAT has dealt with the issue and thus the ratio of that decision may possibly be applied if considered expedient.

4. None appeared on behalf of the assessee and accordingly the matter was proceeded *ex-parte*.

5. We have carefully considered the rival submissions, the solitary issue involved in the Revenue's appeal is towards addition on account of alleged bogus purchases. The ITAT in assessment year 2009-10 on identical facts has dealt with issue as under :

*"6. After hearing the Ld. D.R. and perusing the material on record, we observe that Ld. CIT(A) has passed the appellate order after following the decision of Hon'ble Gujarat High Court in the case of CIT vs. Simit P. Sheth (supra) wherein it has been held that in case of bogus purchases only profit element embedded in the bogus purchases is to be assessed. We note that the co-ordinate benches of the Tribunal have been taking a consistent view that in case of bogus purchases only a GP rate ranges between 2% to 12.5% whereas the Ld. CIT(A) has directed to assess the income @ 25% which is quite on the higher side and therefore we do not find any reason why the Revenue is aggrieved by this order. Accordingly, we uphold the order of the Ld. CIT(A) by dismissing the appeal of the revenue."*

5.1 Having regard to the similarity of the facts and circumstances, the additions affirmed by the Ld. CIT(A) does not call for any interference in consonance with the decision of the Co-ordinate Bench in the earlier assessment year 2009-10.

6. In the result, the appeal filed by the Revenue is dismissed.

**Order pronounced in the open Court on 24/01/2022.**

**Sd/-  
(VIKAS AWASTHY)  
JUDICIAL MEMBER**

**Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER**

Mumbai;

Dated: 24/01/2022

Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Sr. Private Secretary)  
**ITAT, Mumbai**