

IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, MUMBAI
BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No.1938/Mum/2020

(A.Y: 2011-12)

ITO – 7(3)(1) Room No. 142E, 1 st Floor, Aayakar Bhavan, M.k.Road, Mumbai – 400 020	Vs.	M/s Print Plus Pvt Ltd 122, Bldg No. 2, Shah & Nahar Industrial Estate, Dhanraj Mill Compound, Lower Parel (West), Mumbai – 400 013.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAEC7030J		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Shri R.A.Dhyani.Sr.DR

Date of Hearing	23.02.2022
Date of Pronouncement	24.02.2022

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The revenue has filed the appeal against the order of the Commissioner of Income Tax (Appeals)-13 Mumbai, passed u/s 143(3) and 250 of the Income Tax Act, 1961. The revenue has raised the following grounds of appeal.

- 1. On the facts in the circumstances of the case The learned .CIT(A) has erred in restricting the addition on the basis of estimated profits when the assessee failed to prove*

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the existence of the suppliers and also were suppliers are dealers in iron and steel whereas the assessee is engaged in the business of commercial printing?

2. On the facts in the circumstances of the case The learned CIT(A) has erred in allowing the additional evidences of the assessee under rule 46A of the I.T.Act,1961 when the AC had elaborately discussed the same in its remand report and also should have considered that ample opportunities have been provided -to the assessee during the assessment proceedings.

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

2. The Brief facts of the case are that the assessee is engaged in the business of commercial printing. The assessee has filed the return of income electronically on 30.09.2011 with a total income of Rs.11,24,720/- and the return of income was processed u/s 143(1) of the Act. Subsequently, the case was selected for scrutiny under the CASS and the Assessing officer (A.O.) has received information that the assessee is the beneficiary in obtaining the accommodation entries/bills from the bogus parties as per the information from Sales Tax Department Maharashtra. The A.O. has observed that the assessee has obtained the purchase bills from two parties aggregating to Rs. 71,96,242/-.Further, the A.O. has issued notice u/s 143(2) and 142(1) of the Act and called for the

information. In compliance, the Ld. AR of the assessee appeared from time to time and the case was discussed. The A.O in order to check the transactions of the purchases has called for the information and the assessee has submitted the details on 19-03-2014. The A.O to test check the genuineness of the transactions has issued notice u/s 133(6) of the Act on the parties and the said notices were returned unserved by the postal authorities. Finally, the A.O. has dealt on the information and the available evidences and is of the opinion that the assessee has indulge in bogus purchases and A.O. has made 100% addition of purchase transactions of Rs. 71,96,242/-. The A.O. find that the assessee company has paid directors remuneration to the extent of Rs. 23,26,200/- as against Rs.36,00,600/- debited in profit and loss account and the A.O. has disallowed the difference amount of Rs. 12,74,400/- u/s 37(1) of the Act. Finally the A.O. has assessed the total income of Rs. 95,95,360/- and passed the order u/s 143(3) of the Act dated 28.03.2014.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A). The CIT(A) in the appellate proceedings considered the grounds of appeal, findings of

the A.O in the scrutiny assessment, submissions of the assessee on the disputed issue. Finally the CIT(A) considered the judicial decisions of the Honble High Court and Honble Tribunal and restricted the addition to the extent of 25% of bogus purchases and granted partial relief to the assessee.

4. Aggrieved by the CIT(A) order, the revenue has filed an appeal before the Honble Tribunal.

5. At the time of hearing, none appeared on behalf of the assessee. The Ld.DR submitted that the CIT(A) has erred in restricting the addition @ 25% irrespective of facts that no proper information was filed in the Assessment proceedings and relied on the order of the A.O.

6. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue envisaged by the Ld.DR that the CIT(A) has restricted the addition to the extent @25% of the bogus purchases considering profit element embedded. We found that the CIT(A) has dealt on the facts and considered the Hon'ble High Court decision and took a view. Further, We find the Jurisdictional Honble High Court in the case of Pooja Paper Trading Co. Vs. ITO, (104 taxmann.com 95) and Honble Gujarat High court in CIT Vs. Simit P Sheth

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(2013) (356 ITR 451) has considered the profit element embedded in the transaction.

7. We find that the Ld.CIT(A) took a reasonable view that the only profit percentage has to be added and estimated @ 25% of bogus purchases. The Ld.DR could not controvert the observations of the Ld. CIT(A) with any new cogent evidence and material but relied only on the A.O order. We are of the opinion that the CIT(A) dealt on the facts and considered the profit element in the bogus purchases and also the A.O has not disputed the sales. The Ld.CIT(A) has relied on the decisions of Hon'ble High Court and passed a reasoned order. Accordingly, we do not find any infirmity in the order of the CIT(A) and uphold the same and dismiss the grounds of appeal raised by the revenue.

8. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open court on 24.02.2022.

Sd/-
(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 24.02.2022

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Asst. Registrar)

ITAT, Mumba