

आयकर अपीलिय 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. 7295/मुं/2019 (नि.व 2009-10)
ITA NO.7295/MUM/2019(A.Y 2009-10)

ITO-28(3)(4),
Room No.320, 3rd Floor, 6th Tower,
Vashi Railway Station Complex,
Vashi, Navi Mumbai 400 703

..... अपीलार्थी /Appellant

बनाम Vs.

Shri Vaibhav D Warekar,
1, Midland CHS, Sector-9A,
Vashi, Navi Mumbai 400 703.

PAN: AALPW-3682-P

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri T. Shankar

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 07/01/2022

घोषणा की तिथि/ Date of pronouncement : 31/03/2022

आदेश/ ORDER

This appeal by the Revenue is directed against the order of Commissioner of Income Tax(Appeals) -26, Mumbai [in short 'the CIT(A)'] dated 04/09/2019 for the assessment year 2009-10.

2. The brief facts of the case as emanating from records are: The assessee is engaged in the business of trading in steel. The assessment for assessment year 2009-10 in the case of assessee was reopened on the ground that the assessee has indulged in obtaining bogus purchase bills amounting to Rs.9,96,19,122/- from Chemsteel India, one of the hawala operators as per

records of Sales Tax Department, Government of Maharashtra. During the course of assessment proceedings the assessee was required to prove genuineness of the transactions by producing the supplier and furnishing purchase invoices, delivery receipts, transport receipts, etc. Since, the assessee failed to produce documentary evidence to the satisfaction of Assessing Officer to substantiate genuineness of the purchases the Assessing Officer made addition by applying G.P. rate of 0.5% on the total sales turnover and made addition of Rs.18,95,029/-.

2.1 Aggrieved by the assessment order dated 16/03/2015 passed u/s. 143(3) r.w.s.147 of the Income Tax Act, 1961 (in short 'the Act'), the assessee filed appeal before the CIT(A). The CIT(A) after considering the submissions of the assessee followed order by First Appellate Authority in assessee's own case for assessment year 2010-11 and restricted the addition to 0.25%, thereby granting part relief to the assessee. Now, the Revenue is in appeal against the relief granted by CIT(A).

3. Shri T. Shankar Representing the Department vehemently defended the assessment order and prayed for reversing the findings of CIT(A). The Id. Departmental Representative submitted that the assessee has failed to substantiate genuineness of the purchases. The Assessing Officer in a very reasoned order has made addition on bogus purchases by applying G.P ratio of 0.5% declared by the assessee. The Id. Departmental Representative prayed for reversing the findings of CIT(A).

4. Submissions made by Id. Departmental Representative heard, orders of authorities below examined. Undisputedly, the assessee has failed to discharge its onus in proving genuineness of the purchases from alleged hawala dealer. The Assessing Officer made addition in respect of bogus

purchases by applying G.P rate of 0.5%. The CIT(A) modified the assessment order by following the order of his predecessor in assessee's own case for assessment year 2010-11 and restricted the addition to 0.25%. Similar G.P ratio was adopted by CIT(A) in assessment year 2010-11. The Revenue could not controvert the findings of CIT(A), nor any order from Appellate Authority for A.Y.2010-11 has been placed on record to show that the order of CIT(A) was reversed. I find no reason to interfere with the order of CIT(A).

5. In the result, impugned order is upheld and appeal by the Revenue is dismissed.

Order pronounced in the open Court on Thursday the 31st day of March, 2022.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated 31/03/2022

Vm, Sr. PS (O/S)

प्रतिलिपि अग्रहितCopy 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