

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI
BEFORE HON'BLE SHRI SANJAY GARG, JUDICIAL MEMBER

ITA No.885/Mum/2021
(Assessment Year 2018-19)

Ghewarchand M. Chopra HUF
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Co.)
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004

Vs.

The ITO
19(1)(3)
2nd Floor, Matru Mandir,
Tardeo Road, Mahad,
Mumbai-400 007

(Appellant)

(Respondent)

PAN No. AAAHG1569E

Assessee by : Shri Rajkumar Singh, AR
Revenue by : Shri Anil Gupta, DR

Date of hearing: 19.05.2022
Date of pronouncement : 19.05.2022

ORDER

01. The present appeal has been preferred by the assessee against the order dated 25/03/2021 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act').
02. The assessee in this appeal has taken the following grounds of appeal:

"1. That the Ld. C.I.T. (Appeals) has erred in passing a non speaking appellate order in summary manner without appreciating the detailed appeal submission and evidences furnished on appeal record in confirming the disallowance made by Id. A.O. of

entire trading purchases of Rs. 10,56,360/- made from the alleged hawala party, treating the same as ungenuine merely on the basis of information received from Sales Tax Department of Government of Maharashtra but without bringing any contrary evidence on record. Being the alleged disallowance made by Ld. A.O. & confirmed by Ld. C.I.T. (Appeals) wrong on facts and bad in law therefore same may kindly be deleted.

2. That the disallowance of entire trading purchases made by the Ld. A.O. and confirmed by Ld. C.I.T. (Appeals) being wrong on facts and bad in law on the below stated grounds therefore same may kindly be deleted:

- a) There is no dispute that assessee is a trader,*
- b) Also there is no dispute about the corresponding sales made out of disputed purchases with reference to quantity and value,*
- c) If disputed purchases has to be disallowed then corresponding sales is also required to be removed from trading account as per matching principal of accountancy and settled tax law position,*
- d) Case of assessee being a small trader is covered U/s.44AD and ITR filed and profit offered to tax is in consonance of the said provisions,*
- e) Payment to alleged dealer was made through proper banking channels,*

f) That GP declared on sales of disputed purchases are at par with GP declared on sales of undisputed purchases and

g) Ratio of judgement relied by Ld. C.I.T.(Appeals) to confirm the alleged disallowance is entirely misplaced and unapplicable to facts of the case of trader assessee as has been decided in several judgments of hon'ble jurisdictional High Court of Bombay and ITAT, Mumbai

3. That the appellant craves the leave to amend alter substitute and or to raise new or additional grounds of appeal at the time of hearing."

03. The sole issue raised by the assessee in this appeal regarding the action of the lower authorities in making disallowance of the entire trading purchases shown by the assessee of ₹10,56,360/-, treating the same as bogus purchases.
04. At the outset, the learned counsel for the assessee has submitted that the annual turnover of the assessee is less than ₹40 lacs, therefore, the assessee has returned his profit on adhoc basis under section 44AD of the Act. So far as the question of the source of investment in the alleged bogus purchases is concerned, it has not been doubted by the Department. The sales have also not been doubted by the department. The only question is that the purchases were bogus as per the information received by the department. May it be so, the question here is that the assessee if might have purchased the products from grey



market, he might have earned some extra profit. However, profit income of the assessee and the sales turnover being less than ₹ 40lacs per annum is to be estimated at flat rate as per the provisions of Section 44AD of the Income Tax Act. Under these circumstances, there is no question of making any extra addition on account of any alleged bogus purchase as the source of investment is not doubted. In view of this, I do not find any justification on the part of the lower authorities in making the impugned addition and the same are ordered to be deleted. Hence, the appeal of the assessee is stands allowed.

05. In the Result, the appeal of the assessee is allowed.

Order pronounced in the open court on 19.05.2022.

Sd/-/-
(SANJAY GARG)
(JUDICIAL MEMBER)

Mumbai, Dated: 19.05.2022

Sudip Sarkar, Sr.PS

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.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai