

THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" Bench, Mumbai  
Shri M. Balaganesh (AM) & Shri Pavan Kumar Gadale (JM)

I.T.A. No. 966/Mum/2021 (A.Y. 2011-12)

Pallavi Rajiv Doshi M/s. Prime Organic Products Unit No. 6, Bhandup Industrial Estate, LBS Marg Bhandup West Mumbai-400 078.  PAN : AABPD4356P (Appellant)	Vs.	ITO, Ward- 27(2)(1) Vashi Railway Station Building Navi Mumbai 400 703.  (Respondent)
--	-----	--

Assessee by	Shri Aditya
Department by	Shri S.G. Mehta
Date of Hearing	30.05.2022
Date of Pronouncement	31.05.2022

ORDER

Per M.Balaganesh (AM) :-

This appeal by the assessee is directed against the order of learned CIT(A) dated 4.3.2021 pertains to A.Y. 2011-12.

2. The only issue to be decided in this appeal is as to whether learned CIT(A) was justified in confirmed the addition made on account of alleged bogus purchases of Rs. 11,06,753/- in the facts and circumstances of the instant case.

3. We have heard the rival submission and perused the records. We find that the assessee is an individual engaged in the business of manufacturing of colour pigments and chemicals. It is not in dispute that the assessee had made purchases from Krishna Enterprises, Mahavir Enterprises and Vijay Enterprises totalling to Rs. 11,06,753/-, whose names have been stated to be tainted dealers in the website of sales tax department, Government of Maharashtra. The assessee furnished entire quantitative details matching

purchases together with its consumption before learned Assessing Officer vide letter dated 24.8.2016 apart from providing primary details such as copy of purchase bill, ledger account, bank statement evidencing payments made to the concerned suppliers. There is absolutely no dispute that the materials purchased from the aforesaid three suppliers have been duly consumed by the assessee in its manufacturing process. Despite that fact, both the learned Assessing Officer as well as learned CIT(A) proceeded to disallow 100% value of purchases by recording factually incorrect statement that the assessee had not proved consumption of material and by merely relying on the third party information from the sales tax department. We find that learned CIT(A) had even recorded the fact that in subsequent years, a sum of Rs. 4,28,190/- had been written back to income by the assessee as liability no longer required out of this purchases of Rs. 11,06,753/-. Based on this fact, the learned Departmental Representative vehemently argued that it is conclusively proved that the purchases made by the assessee are bogus. We are unable to persuade ourselves to accept to this argument of learned Departmental Representative. The fact of the assessee writing back certain payables to income and offering it to tax in subsequent years might arise due to various genuine circumstances. That does not make purchase transaction that had happened during the year under consideration bogus. We are convinced of the fact that the assessee had indeed furnished quantitative details of material purchased and evidence for the same being consumed in the manufacturing process during the year under consideration. Hence, at best, the assessee could be faulted for making purchases from the grey market in order to have some savings in indirect taxes and incidental profit thereon. In these circumstances, it would be just and fair to bring to tax only profit element embedded in the value of such purchases. This Tribunal has been consistently estimating such profit percentage to be at 12.5% of the value of ingenuine purchases. We further find that in earlier years in assessee's own case, learned CIT(A) himself had estimated profit element only at 12.5% and the Revenue

appeals were dismissed by this Tribunal by confirming the order of learned CIT(A). In these circumstances, following the Tribunal order in assessee's own case for A.Ys. 2009-10 & 2010-11 in ITA No. 5178 & 5179/Mum/2018 dated 23.10.2019, we direct the learned Assessing Officer to estimate profit element @ 12.5% of bogus purchases. Accordingly, ground raised by the assessee is partly allowed.

4. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 31.05.2022.

Sd/-  
(PAVAN KUMAR GADALE)  
JUDICIAL MEMBER

Sd/-  
(M. BALAGANESH)  
ACCOUNTANT MEMBER

Mumbai; Dated : 31/05/2022

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,

(Assistant Registrar)  
ITAT, Mumbai

PS