



*indulging in issuing bogus bills and not disputed by CIT(A) as against addition of 15% on total bogus purchase by AO without giving any cogent reason to why disallowance of 5% should be done and not 15% as done by the AO.*

*2. Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was correct in holding that estimation of GP rate of 5% instead of 15% of bogus purchases, is fair and justified and failing to appreciate that the assessee had failed to establish the genuineness of the alleged parties from whom purchases were claimed to have been made during the year ?*

*3. Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was correct in holding that estimation of GP rate of 5% instead of 15% of bogus purchases, is fair and justified and failing to appreciate that the assessee could neither produce documentary evidence nor the books of accounts nor he could produce the alleged parties from whom purchase were claimed to have been made during the year”*

2. Facts in brief are that the assessee's case was reopened for the reason that some purchases were alleged to have been made by the assessee from suspicious parties. The Assessing Officer noted that assessee had arranged bills worth Rs.13 lacs from bogus parties and he estimated the gross profit on such alleged purchases at Rs.1,95,078/- @ 15% of the purchases. The Id. CIT(A), following the earlier ITAT order in the case of assessee for Assessment Years 2009-10 to 2011-12 wherein the Tribunal has applied gross profit rate of 5%, restricted the gross profit addition to 5% of the bogus purchases.

3. We do not find any infirmity in the order of the Id. CIT(A) since the Id. CIT(A) has only followed the earlier order of the Tribunal wherein the Tribunal has held that 5% of the gross profit rate should be applied on the

bogus purchases, which decision of the Tribunal is also supported by the judgment of Hon'ble jurisdictional High Court in the case of *PCIT vs Mohammad Haji Adam & Co. in ITA Nos. 1004 and others of 2016* dated 11.02.2019 and *PCIT vs. Rishabhdev Tachnocable Ltd., 424 ITR 338 (Bom.)*. Accordingly, order of the Id. CIT(A) is upheld.

4. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 29<sup>th</sup> June, 2022.

Sd/-  
**(GAGAN GOYAL)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai, Date : 29.06.2022

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Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "D" Bench, Mumbai
- 6) Guard file

By Order

Asstt. Registrar/Sr. Private Secretary  
I.T.A.T, Mumbai