

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

ITA NO. 1261/MUM/2022 : A.Y : 2009-10

Dy. Commissioner of Income Tax
-4(1)(1), Mumbai.
(Appellant)

Vs.

M/s. Abhijeet Dies and Tools
Private Limited,
83-C, Government Industrial
Estate, Ganesh Nagar, Charkop,
Kandivali (W), Mumbai 400067.
PAN : AAACA4238M
(Respondent)

Appellant by : Mahita Nair

Respondent by : None

Date of Hearing : 29/06/2022

Date of Pronouncement : 29/06/2022

ORDER

PER AMIT SHUKLA, JM :

The aforesaid appeal has been filed by the Revenue against the impugned order dated 11.03.2022 passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) (in short 'Id. CIT(A)') deleting the addition made by the Assessing Officer on account of bogus purchases. In its appeal, assessee has raised the following grounds :-

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition on account of bogus purchases

without appreciating the fact that the assessee has failed to prove the genuineness of the transaction?

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in not upholding the order of the Assessing Officer and erred in restricting the addition to the extent of shortfall in gross profit as compared to the gross profit of 15% i.e. 3.80% without appreciating the facts that as per enquiry & investigation made by this office, the alleged parties are mere accommodation entry providers and the assessee is one of the beneficiaries of such accommodation entry.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing the appeal of the assessee by placing reliance upon decision in the case of the assessee's sister concern M/s. Abhijeet Plastic India Pvt. Ltd., ITA No. 1426 to 1428/Mum/2019 for assessment years 2009-10 to 2011-12 which is not accepted by the department and the further appeal to Hon'ble High Court has been recommended in the case of M/s. Abhijeet Plastic India Pvt. Ltd. for AY 2009-10 to 2011-12."

2. Facts in brief are that on the basis of information received by the Assessing Officer that the assessee has obtained bogus purchase bills of Rs.17,74,730/- from M/s. KRC Trading Co. Pvt. Ltd., the assessee's case was reopened under Section 148 of the Income Tax Act, 1961 (in short 'the Act'). The Assessing Officer based on such information has held that the entire bogus purchases of Rs.17,74,730/- needs to be added as unexplained expenditure. The Id. CIT(A) following the decision of Tribunal in assessee's own case for Assessment Year 2012-13 in ITA No. 1430/Mum/2019 has restricted the addition by applying gross profit rate of 15%. Against this, Revenue is in appeal.

3. Since the Id. CIT(A) has followed the earlier year order of ITAT by applying gross profit rate of 15% on the bogus purchases, therefore, we do not find any infirmity in such an order and the same is upheld.

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

Order pronounced in the open court on 29th June, 2022.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai, Date : 29.06.2022

SSL

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