

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

**BEFORE SHRI AMIT SHUKLA, HON'BLE JUDICIAL MEMBER AND  
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

**ITA NO. 432/MUM/2019 (A.Y. 2009-10)**

Munnidevi Pawankumar Agarwal 12/201, Flower Valley Near Cadbury, Thane - 400601  <b>PAN: AADPA6937B</b>	v.	Income Tax Officer – 17(2)(4) Mumbai
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	<b>:</b>	<b>None</b>
<b>Department by</b>	<b>:</b>	<b>Shri Mahita Nair</b>
<b>Date of Hearing</b>	<b>:</b>	<b>07.07.2022</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>14.07.2022</b>

**ORDER**

**PER S. RIFAUR RAHMAN (AM)**

**1.** This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals)-28, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 11.11.2016 for the A.Y. 2009-10.

**2.** Assessee has raised following grounds in its appeal: -

*"1. On the facts and in the circumstances of the case and in law the Id. CIT (A) - 28 has erred in law and on facts in confirming the*

*addition of Rs.1,08,06,320/- made by the Id. A O, on account of bogus purchases without appreciating the following:*

*a. All the purchases made are genuine and against proper billing.*

*b. There are no purchases made from the parties stated in the Assessment Order.*

*c. The source of information of the assessing officer is not reliable and there was no circumstantial evidence gathered to arrive at the conclusion.*

*2. The Appellant prays that the addition of Rs. 1,08,06,320/- made in respect of bogus purchases from hawala parties be deleted as the same is unwarranted.*

*3. The Appellant craves leave to add, amend, alter vary and/or withdraw any or all the above grounds of Appeal."*

**3.** In spite of issue of notice none appeared on behalf of the assessee nor any adjournment was sought. Therefore, we proceed to dispose of this appeal on hearing the Ld. DR on merits.

**4.** Considered the submissions of Ld.DR and material placed on record. On a perusal of the Ld.CIT(A) order, we find that the Ld.CIT(A) provided opportunity only in two occasions and assessee could not appear before the Ld.CIT(A). Ld.CIT(A) dismissed the appeal ex parte. Considering the totality of facts and circumstances of the case and keeping in view the additions/disallowance made by the Assessing Officer, in the interest of justice we are of the opinion that assessee should be given one more opportunity of being heard. Thus, this appeal is restored to the file of the

Ld.CIT(A) for denovo adjudication in accordance with law. Assessee is directed to appear before the Ld.CIT(A) and shall cooperate with the appellate proceedings without taking unnecessary adjournments. Thus, this appeal is restored to the file of the Ld.CIT(A) accordingly.

**5.** In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 14<sup>th</sup> July, 2022.

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

Mumbai / Dated 14.07.2022  
Giridhar, Sr.PS

**Sd/-**  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**