

THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" Bench, Mumbai  
Shri B.R. Baskaran (AM)

I.T.A. No. 436/Mum/2022 (A.Y. 2010-11)

Anil Babulal Jain Shop No. 55/A Ground Floor, 23/24 4 <sup>th</sup> Kumbharwada 2 <sup>nd</sup> Pathan Street Mumbai-400 004.  PAN : AGFPJ6994H (Appellant)	Vs.	ITO-19(1)(1) Matru Mandir Tardeo Road Mumbai-400 007.  (Respondent)
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Assessee by	Shri Navin Mishra
Department by	Ms. Naina Krishnakumar
Date of Hearing	18.07.2022
Date of Pronouncement	18.07.2022

ORDER

The assessee has filed this appeal challenging the order dated 25.9.2019 passed by learned CIT(A)-30, Mumbai and it relates to A.Y. 2010-11. The assessee is aggrieved by the decision of learned CIT(A) in not only confirming the addition relating to alleged bogus purchases, but also enhancing the same to 100% of the purchase value.

2. I have heard the parties and perused the record. The addition made by the Assessing Officer relates to alleged bogus purchases made by the assessee. The AO assessed the profit element @ 15% of the value of alleged bogus purchases. The Ld CIT(A) enhanced it to 100%. However, I noticed that the assessment had been completed by the Assessing Officer to the best of his judgement under section 144 of the I.T. Act. Further learned CIT(A) was constrained to dispose of the appeal ex-parte, since the assessee did not appear before him despite giving several opportunities. Thus the impugned additions have been made by the tax authorities without hearing assessee.

3. Natural justice calls for providing adequate opportunity of being heard to the assessee. Accordingly, I am of the view that the assessee should be provided with an opportunity to present his case before learned CIT(A). Due to the conduct of the assessee, I am of the view that the same shall be given at a cast. Accordingly I impose a cost of Rs. 2,000/- upon the assessee, which shall be paid to the credit of Income Tax Department as 'other fees'.

4. Subject to the payment of above fees, proof of which should be produced before learned CIT(A), I set aside the order passed by learned CIT(A) and restore all the issues to his file for examining them afresh after affording adequate opportunity of being heard to the assessee. I also direct the assessee to fully cooperate with learned CIT(A) for expeditious disposal of the appeal.

5. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 18.07.2022.

Sd/-  
(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 18/07/2022

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