

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL "B"
BENCH, PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकरअपीलसं. / ITA No.779/PUN/2019
निर्धारणवर्ष / Assessment Year : 2009-10

Shri Yogesh Shashikant Saraswate, 539, Clover Centre, Moledina Road, Pune – 411001. PAN: AKZPS 7487 E	Vs	The DCIT, Circle-7, Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	None.
Revenue by	Shri Sardar Singh Meena – DR
Date of hearing	18/07/2022
Date of pronouncement	05/08/2022

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal filed by the Assessee is directed against the order of Id.Commissioner of Income Tax(Appeals)-10, Pune for the A.Y. 2009-10 dated 18.03.2019, emanating out of order under section 144 r.w.s 147 of the I.T.Act, 1961. The assessee raised the following grounds of appeal:

- “1.The learned CIT(A)-10, Pune; erred in law and on facts in upholding the disallowance made by the learned DCIT, Circle 7, Pune (hereinafter referred to as the learned AO) amounting to Rs.7,26,37,717/- on account of alleged bogus purchases.*
- 2. The learned CIT(A) erred in law and on facts in sustaining the addition made by the learned AO without appreciating that the learned AO had proceeded only on the basis of information received from Sales Tax Department and without conducting any independent enquiries.*

3. *Appellant contends that, the appellant's absence of attendance before the I-T Authorities was outcome of compelled change of address situation and that, appellant has every pursuit to make detailed submission on merits; given another opportunity of being heard.*
4. *Without prejudice to ground no. 1 to 3 above, the learned AO erred in law and on facts in not restricting the amount of addition to the extent of gross profit.*
5. *The appellant craves leave to add, alter, clarify, explain, modify, delete any of the grounds of appeal, and to seek any just and fair relief.”*

2. The only issue raised by way of above grounds is against the confirmation of addition of Rs.7,26,37,717/- on account of bogus purchases at 100% of the amount of purchases.

3. Briefly stated, the facts of the case are that the assessee is engaged in the business of trading in steel, engineering, electric & electronic material etc., The assessee filed the return on 14.10.2009 declaring total income of Rs.40,73,900/-. In the assessment proceedings under section 143(3) the AO determined the income of the assessee at Rs.41,38,100/-, thereafter, the case was reopened by means of notice u/s.148 by the Assessing Officer (AO) on receiving information about the assessee having received bogus bills. Based on such information, the AO confronted the assessee and required him to tender explanation. In the absence of any co-operation forthcoming from the assessee's end, the AO made addition @100% of purchases under section 144 r.w.s 147 of the Act. The assessee did not appear before the Id.CIT(A) also despite several opportunities

were given to the assessee. The ld.CIT(A) dismissed the appeal of the assessee in limine for want of attendance. Aggrieved by the order of the ld.CIT(A), the assessee is in appeal before this Tribunal.

4. We have heard the ld.DR and perused the relevant material on record. We find the AO in this case passed order under section 144 of the Act. The ld.CIT(A) also passed the ex-parte order. The ld.CIT(A) has dismissed the appeal without discussing merits of the issue. Even before the Tribunal, the assessee did not chose to present for hearing. In the aforesaid circumstances, we deem it appropriate to remit the issue back to the file of ld.CIT(A) to decide the issue on merits afresh as per law after allowing reasonable opportunity of hearing to the assessee. We find it expedient to give one more opportunity of being heard to the assessee. Needless to say, the assessee is at liberty to file relevant documents as considered necessary. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

5. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open Court on 5th August, 2022.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 5th August, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकरअपीलीयअधिकरण, पुणे/ITAT, Pune.