

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.60/PUN/2021
निर्धारण वर्ष / Assessment Year : 2012-13

Dy. Commissioner of Income Tax,
Circle – 1, Jalgaon

.....अपीलार्थी / Appellant

बनाम / V/s.

M/s. BNC Power Projects Limited,
CTS No. 259, Buttepail Complex,
Karve Road, Paudphata,
Pune – 411038

PAN : AADCB2599R

.....प्रत्यर्थी / Respondent

Assessee by : Shri Nikhil S. Pathak
Revenue by : Shri Ramnath P. Murkunde

सुनवाई की तारीख / Date of Hearing : 23-09-2022
घोषणा की तारीख / Date of Pronouncement : 27-09-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the Revenue against the order dated 10-12-2020 passed by the Commissioner of Income Tax (Appeals)-12, Pune [‘CIT(A)'] for assessment year 2012-13.

2. The appellant-revenue raised four grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) justified in restricting the addition at Rs.57,69,015/- against Rs.5,19,21,132/- made by the AO on account of bogus purchases.

3. Brief facts relating to the case are that the assessee is a company engaged in the business of installation of power transmission towers. The assessee conducts its business under the name and style as "M/s. BNC Power Projects Ltd.". Pursuance to the search and seizure action carried u/s. 132 of the Act in the case of Chaudhari Group, the AO determined the income of the assessee at Rs.9,28,49,210/-. The CIT(A) revised the same at Rs.7,91,50,729/-. It is noted an information from the DDIT (Inv.) was received by the AO on account of transactions with M/s. A2 Enterprises Pvt. Ltd. to an extent of Rs.5,76,90,147/- stating to be that the said M/s. A2 Enterprises Pvt. Ltd. provided accommodation entries to its beneficiaries including the assessee. On the basis of such information the assessment of the assessee which was completed u/s. 143(3) r.w.s. 153B was reopened and the AO revised the total income of the assessee at Rs.13,68,40,876/- inter alia making addition on account of bogus purchases to an extent of Rs.5,76,90,147/- vide its order dated 19-11-2019 passed u/s. 143(3) r.w.s. 147 of the Act. In first appeal, the CIT(A) restricted the said addition, estimating the profit at 10% of such alleged bogus purchases. Not satisfied with the said order the Revenue is before us by raising above mentioned grounds.

4. Heard both the parties and perused the material available on record. We note that the CIT(A) came to such conclusion in restricting the addition on the basis of estimation at 10% in terms of decision of Hon'ble High Court of Bombay in the case of Mohammed Haji Adam & Co. which held that no ad-hoc addition for bogus purchase should be made and addition should be made to the extent difference between gross profits rate on genuine purchases and gross profits rate on hawala purchases. Further, he referred to the decision of Hon'ble High of Bombay in the case of M/s. Paramshakti Distributors Pvt. Ltd. wherein which confirmed the addition @

10% of bogus purchase. We find that the profit and loss account of assessee at page 18 wherein it shows the Revenue from operations at Note No. 18. The said Note No. 18 is placed at page 34 of the paper book and shown traded goods concerning between steel bars, sheets and other M.S. items. We note that Note No. 20 it is shown the purchase of traded goods. On an examination of such details of assessee, we do not find any infirmity in the order of CIT(A) in estimating the profit at 10% of alleged bogus purchase of Rs.5,76,90,147/- from M/s. A2 Enterprises Pvt. Ltd. Thus, in the light of the settled legal position the order of CIT(A) is justified and the grounds raised by the Revenue are dismissed.

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

Order pronounced in the open court on 27th September, 2022.

Sd/-
(R.S. Syal)
VICE PRESIDENT

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 27th September, 2022.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-12, Pune
4. The Pr. CIT, Central, Nagpur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune