

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA Nos.746 & 747/PUN/2022

निर्धारण वर्ष / Assessment Years : 2010-11 & 2011-12

Pravin Chandrakant Shah 981 A, Main Road, Nashik PAN : ACMPS2965C (Appellant)	<b>Vs.</b>	ITO, Ward-2(1), Nashik (Respondent)
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Appellant by

Shri Sanket Joshi

Respondent by

Shri Kalpesh Kumar Rupavatiya

Date of hearing

07-12-2022

Date of pronouncement

07-12-2022

**आदेश / ORDER**

**PER R.S.SYAL, VP :**

These two appeals by the assessee arise out of separate orders, both dated 16.06.2022, passed by the National Faceless Appeal Centre (NFAC), Delhi in relation to the assessment years 2010-11 and 2011-12. Since common issues are raised in these appeals, I am, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

2. There is a delay of 60 days in presenting these appeals before the Tribunal. The ld. AR submitted the reasons for the delay. Finding the same to be reasonable, I condone the delay and admit the appeals for disposal on merits.

3. The only issue raised in the appeal for the A.Y. 2010-11 is against the confirmation of addition of Rs.32,90,120/- on account of hawala purchases. The factual matrix of the case is that the assessee was found to have received bogus purchase bills amounting to Rs.32,90,120/- through hawala transactions. After initiating the re-assessment proceedings, the AO made addition for the said sum. The Id. CIT(A) echoed the same. Aggrieved thereby, the assessee has approached the Tribunal.

4. I have heard both the sides and gone through the relevant material on record. It is a case where the assessee is engaged in the business of trading. The invoices relating to Hawala purchases represent the goods which were allegedly purchased and sold by the assessee. The AO has made addition at 100% of the invoice value of Hawala purchases which has been affirmed at the same level. The point raised herein is against the addition on account of profit on hawala purchases. The issue of bogus purchases and the consequential addition came up for consideration before the Hon'ble Bombay High Court in *Pr. CIT & Ors. vs. Mohammad Haji Adam & Co. & Ors. (2019) 104 CCH 0391 MumHC*. The Hon'ble jurisdictional High Court has

held in this case that no *ad hoc* addition of bogus purchases is warranted. Rather the addition should be made to the extent of difference between the gross profit rate on genuine purchases and gross profit rate on hawala purchases.

5. Firstly, it is found as an admitted position that the hawala purchases in the extant case were utilized in the trading business and not consumed in any manufacturing activity. It is further clear that the assessee had properly accounted for the purchases so made against hawala transactions. In other words, the actual purchases made against the depicted hawala purchases have been either been sold out or were available in closing stock. Certainly, addition on account of hawala purchases is required to be made, but, respectfully following the *ratio* in the case of *Mohammad Haji Adam (supra)*, the quantum of addition towards bogus purchases, needs to be worked out by considering similar purchases made by the assessee from genuine transactions and thereafter finding out the excess amount of purchases recorded through hawala transactions. The differential percentage between the two prices is directed to be applied to the amount of Hawala purchases for making an addition on this score, if

warranted. At this stage, it is relevant to mention that the assessee filed return u/s 147 offering additional income to the tune of Rs.4,44,824/-. The ld. AR submitted that the additional income was on account profit of hawala purchases. This fact needs to be verified by the AO. In case the amount of addition by the above exercise comes out to be more than the additionally offered amount in the return towards hawala profit, then the excess should be added. In the otherwise scenario, the total income should be restricted to the returned income. I, therefore, set aside the impugned order and remit the matter to the file of the AO for working out the correct amount of addition in terms of the above observations after allowing a reasonable opportunity of hearing to the assessee.

6. The facts and circumstances of the other appeal are *mutandis* similar to the assessment year 2010-11. For the assessment year 2011-12, the amount of bogus purchases stands at Rs.30,50,282/ and the assessee offered additional income in her return u/s 147 to the tune of Rs.3,44,987/-. Following the view taken hereinabove, the impugned order for this year is also set aside and the issue is remitted to the file of the AO for

working out the correct amount of addition in accordance with the directions given above for the assessment year 2010-11.

7. In the result, both the appeals are partly allowed for statistical purposes.

Order pronounced in the Open Court on 07<sup>th</sup> December, 2022.

**Sd/-**  
**(R.S.SYAL)**  
**उपाध्यक्ष/ VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 07<sup>th</sup> December, 2022  
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) /  
The concerned CIT (Appeals), Pune
4. The concerned Pr. CIT, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC"  
/ DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	07-12-2022	Sr.PS
2.	Draft placed before author	07-12-2022	Sr.PS
3.	Draft proposed & placed before the second member	--	JM
4.	Draft discussed/approved by Second Member.	--	JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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