

आयकर अपीलीय अधिकरण न्यायपीठ नागपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH : NAGPUR

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

आयकर अपीलसं. / ITA No.22/NAG/2017
निर्धारणवर्ष / Assessment Year : 2011-12

Mohanlal Kalaji Suthar, Vinayaka Metal Indus, Shop No.04, Sai Wadi Sankul, MIDC T Point, Amravati Road, Wadi, Nagpur – 440023. PAN: ARRPS 5022 Q	Vs.	The Dy.CIT, Circle-1, Nagpur.
Appellant/ Assessee		Respondent /Revenue

Assessee by	None.
Revenue by	Shri G.J.Ninawe – DR
Date of hearing	14/11/2022
Date of pronouncement	10/01/2023

आदेश/ ORDER

Per S.S.Godara, JM:

This assessee's appeal for Assessment Year 2011-12 is directed against the Commissioner of Income Tax(Appeal)-1, Nagpur's dated 03.11.2016 in case no.CIT(A)-1/289/2015-16, in proceedings u/s.143(3) of the Income Tax Act, 1961 [in short "the Act"].

Case called twice. None appears at assessee's behest. He is accordingly proceeded ex-parte.

2. The assessee appears to have raised a single grievance in his corresponding 7 substantive grounds challenging correctness of the both lower authorities action disallowing commission and brokerage of Rs.21,89,875/- in issue.

3. We note that the assessee's instant appeal hardly required us to deal the relevant facts at length. We make it clear that the CIT(A)'s order has been passed against the Assessing Officer's section 143(3) r.w.s 147 assessment only disallowing the alleged bogus purchases of Rs.28,70,544/- sourced from hawala operators.

4. The Revenue at this stage sought to highlight the assessee's returned income of Rs.27,97,789/- which followed the foregoing bogus purchases as well as the impugned disallowances of commission / brokerage. We find no merit in the Revenue's instant arguments once the CIT(A)'s detailed decision has already deleted the foregoing bogus purchases forming the sole reason of reopening. This indeed is coupled with the clinching fact that there is no discussion at all in the assessment order herein dealing with the assessee's commission payments in issue. Nor the CIT(A)'s had given him any enhancement notice to this effect in the lower appellate proceedings.

5. Faced with this situation, we delete the impugned commission / brokerage disallowance of Rs.21,89,875/- for these precise reasons.

Ordered accordingly.

6. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 10th January, 2023.

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

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

पुणे / Pune; दिनांक / Dated : 10th Jan, 2023/ 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, नागपुर बेंच,
नागपुर / DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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