

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.1844/Mum/2023  
(A.Y. 2011-12)**

Neeta Prakash Bavishi 21/C, Sai Darshan, 6 <sup>th</sup> Floor, Above Akbar Allys Santacruz West, Mumbai – 400054	Vs.	ITO Ward – 22(2)(4), Piramal Chambers, Mumbai 400012
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAFPB0332D		
Appellant	..	Respondent

Appellant by :	Hero Rai
Respondent by :	Prakash Kishinchandani

Date of Hearing	04.09.2023
Date of Pronouncement	28.09.2023

**आदेश / ORDER**

**Per Amarjit Singh (AM):**

This appeal filed by the assessee is directed against the order passed by the Id. CIT(A) NFAC, dated 03.04.2023 for A.Y. 2011-12. The assessee has raised the following grounds before me:

- “1. On the facts and in the circumstances of the case and in law the CIT Appeal was not justified in passing and order confirming the action of the Assessing Officer in making a disallowance of Rs.3,70,630/- being 25% of the alleged purchases of Rs.1,82,522/- without going into the various submissions that were filed by the appellant by way of statement of facts along with the grounds of appeal.
2. The appellant submits that the CIT Appeals has not even commented on the submissions of the appellant but has merely stated that as there were no compliance with the notices issued

*by him he has adjudicated the issues on merits without specifying or commenting on the submission of the appellant thereby wrongly upholding the addition of Rs. 3,70,630/- made by the Assessing Officer.*

3. *The appellant submit the CIT Appeals has not passed speaking order with regards to the various submissions of the appellant in the statement of facts thereby wrongly confirming the addition.*
4. *The appellant submits that the purchases made at genuine and merely by relying upon the information of the Sales Tax Department it cannot be held that the purchases of the appellant are bogus without appreciating the fact that the appellant has filed substantial evidence with the Assessing Officer in proof of the purchases.*
5. *The appellant craves leave to add to alter or vary the grounds of appeal at or before the hearing of the appeal.”*

2. Fact in brief is that the assessee filed return of income on 29.09.2011 declaring total income at Rs.470,732/-. The case of the assessee was reopened after issuing notice u/s 148 of the Act on 02.03.2015 on the basis of information received from the sale tax authorities that assessee has availed accommodation entries from certain hawala parties for assessment year 2011-12 to the amount of Rs.14,82,522/-. During the course of assessment the assessing officer noticed that assessee has made purchases from the following hawala parties to the amount of Rs.14,82,522/- during the year under consideration.

Sr. No.	TIN	Name of the Bogus Supplier	PAN of the bogus supplier	Amount of Bogus Purchases (Rs.)
1.	27400536623V	Shreeji Enterprise	AKLPP3256E	107,100
2.	27590765584V	Real Value Commerical Private Limited	AAECR6808A	510,581
3.	27770716209V	Span Enterprise	AZTPP3280F	864,841
		Total		14,82,522

On query the AO stated the assessee has submitted the detail pertaining to purchases made as under:

- a. Party wise details of Purchases.*
- b. Purchase Bills, Ledger Account of alleged bogus parties.*
- c. Purchase Register & Sales Register*
- d. Ledger extract of the suppliers accounts along with bank statement highlighting the payment made to these parties through cheques.*
- e. Statement showing bill wise quantitative details of the purchases.*
- f. A statement showing details of purchases made from the alleged bogus parties and the corresponding sales of the material purchased to other parties.”*

After referring the aforesaid details the assessee submitted that transactions of purchases were genuine and also contended that corresponding sales were also effected. However, the assessing officer has not agreed with the submission of the assessee on the reason that aforesaid suppliers had admitted before the sale tax department that they were involved in providing accommodation entries. Therefore, 25% of such purchases to the amount of Rs.370,630/- was treated as non-genuine purchases by the assessing officer after following the decision of M/s Vijay Protein Ltd. (1996) 58 ITD 428 (Ahd). The AO stated that sale sales Tax Department has proved that the said parties were providing accommodation entries.

3. The assessee filed the appeal before the ld. CIT(A). In spite of issuing of number of notices the assessee has not made any compliance at the time of appellate proceedings before the ld. CIT(A), therefore the ld. CIT(A) has dismissed the appeal of the assessee reiterating the facts reported by the AO.

4. During the course of appellate proceedings before me the representative of the assessee submitted that assessee's husband was suffering from brain tumour, therefore, because of disturbance in the family there was no person to look into the mails/messages received on the portal of the Income Tax Department. He also submitted that notices were issued between 20.07.2022 to 17.03.2023 which was the Covid period. Therefore, he requested that another opportunity be provided to the assessee for deciding her case on merit.

On the other hand, the ld. D.R supported the order of lower authorities.

5. Heard both the sides and perused the material on record. Without reiterating the facts as elaborated above the ld. CIT(A) has issued a number of notices as referred at page no. 11 of the appeal order, however, the assessee has not made any compliance. Therefore, the ld. CIT(A) has dismissed the appeal of the assessee ex-parte on the basis of finding of the assessing officer. I have perused the submission made by the assessee because of serious medical problem faced by the husband of the assessee (Brain tumour) there was disturbance in the family and no one could look into email or message posted on the portal on the Income Tax Department, therefore, no compliance could be made before the ld. CIT(A), however, she has filed various details before the assessing officer at the time of assessment proceedings. Looking to the above facts and circumstances I consider that in the interest of justice it is appropriate to provide more opportunity to the assessee for adjudicating her case on merit, therefore, I restore this case to the file of the ld. CIT(A) for deciding afresh after providing opportunity to the assessee. The assessee is directed to

make compliance before the ld. CIT(A) without any failure. Therefore, the ground of appeal of the assessee are allowed for statistical purposes.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 28.09.2023

Sd/-

(Amarjit Singh)  
Accountant Member

Place: Mumbai  
Date 28.09.2023  
Rohit: PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण/ ITAT, Bench,**  
**Mumbai.**