

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "E", MUMBAI

Before Shri B R Baskaran, Hon'ble Accountant Member,  
& Shri Rahul Chaudhary, Hon'ble Judicial Member

ITA No.2424/Mum/2023  
(Assessment Year: 2011-12)

ITO Ward 4(2)(1), Mumbai.	Vs.	Kanakshree Fabrics Private Limited, 204 Vinod Villa, 66 Jagruti Mataji Marg, Ramwadi, Mumbai 400 002.
(Appellant)		PAN AAACK4756E (Respondent)

For the Assessee : Shri C V Jain  
For the Revenue : Shri P D Chougule - Sr. AR

Date of Hearing : 17.10.2023	Date of Pronouncement : 17.10.2023
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**ORDER**

**Per B R Baskaran, Accountant Member:** The revenue has filed this appeal challenging the order dated 12-05-2023 passed by Ld CIT(A), NFAC, Delhi and it relates to the assessment year 2011-12. The revenue is aggrieved by the decision of Ld CIT(A) in granting relief in respect of addition relating to alleged bogus purchases.

2. The facts relating to the issue are that the assessing officer received information from the Sales tax department of Maharashtra Government that certain dealers are indulging in providing only accommodation bills without actually supplying the materials. The assessee was identified as one of the parties who have taken accommodation bills for purchases to the tune of Rs.9,91,266/-. Hence the

AO re-opened the assessment u/s 147 of the Act and disallowed entire amount of alleged bogus purchases stated above. The Ld CIT(A) however directed the AO to make addition of gross profit earned on such purchases by following the decision rendered by Hon'ble Bombay High Court in the case of Mohammad Haji Adam & Co. (103 taxmann.com 459). The direction given by Ld CIT(A) is extracted below:-

*"Therefore, respectfully following the jurisdictional HC and other HC decisions, the calculation of gross profit on bogus purchases of Rs.9,91,266/- is upheld and not the entire addition of the purchase amount of Rs.9,91,266/-. Following the decision of the Hon'ble Bombay HC, the AO is directed to calculate the gross profit on these bogus purchases based on the profit ratio for the other actual purchases in the year."*

The revenue is aggrieved.

3. The Ld D.R submitted that the Gujarat High Court has sustained addition of 25% of the value of bogus purchases in the case of N K Proteins Ltd. Accordingly he submitted that the Ld CIT(A) was not justified in directing the AO to assess only gross profit. The Ld A.R, on the contrary, submitted that the Ld CIT(A) has followed jurisdictional High Court's decision, which is also binding upon the AO. Accordingly, he submitted that the order passed by Ld CIT(A) does not call for any interference.

4. Having heard rival submissions, we agree with the contentions of Ld A.R. Since the Ld CIT(A) has followed binding decision rendered by jurisdictional Hon'ble Bombay High Court, we do not find any reason to interfere with his order. Accordingly, we uphold the same.

5. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open court on 17<sup>th</sup> October, 2023.

Sd/-

(Rahul Chaudhary)  
JUDICIAL MEMBER

Mumbai, Dated : 17<sup>th</sup> October, 2023  
SA

Sd/-

(B R Baskaran)  
ACCOUNTANT MEMBER

**Copy of the Order forwarded to :**

1. The Appellant.
2. The Respondent.
3. The PCIT, Mumbai.
4. The CIT
5. The DR, 'E' Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Assistant Registrar)  
Income Tax Appellate Tribunal, Mumbai