

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'F' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.2296/Mum/2023
(Assessment Year :2011-12)**

Income Tax Officer- 19(3)(1) Mumbai Piramal Chamber Room No.405, Lalbaug Mumbai – 400 012	Vs.	Uttam Ghewarchand Shrishrimal Off No.16, 2 nd Floor 76/78-Prabhu Bhavan V.P. Road Khetwadi Mumbai – 400 004
PAN/GIR No.ACWPJ4359F		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri Ujjawal Kumar Chavan
Date of Hearing	09/11/2023
Date of Pronouncement	04/12/2023

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the Revenue against order dated 18/01/2023 passed by NFAC, Delhi for the quantum of assessment passed under Section.147 r.w.s. 144 for the A.Y.2011-12.

2. In various grounds of appeal, the Revenue has challenged the deletion of addition of Rs.42,50,040/- being 50% disallowance of bogus purchases of Rs.85,00,080/-.

3. The brief facts are that assessee is an individual engaged in the business of trading in ferrous and non-ferrous metal. As per the information received from the Sales Tax department that assessee has made certain purchases from the parties who were found to be providing bogus purchase bills. Accordingly, assessee's case was reopened under Section.148. The ld. Assessing Officer has treated the entire purchases made from such parties of Rs.1,66,15,733/- which are as under:-

Sr.No.	Name of the Party	Amount
1	Ratnadeep Tubes	1,355,369
2	Sunidhi Metal	2,011,939
3	Veer Industries	2,179,533
4	Atlas International	573,133
5	Nirma Metal Industries	1,285,056
6	Kanak Steel Industries	4,210,723
	TOTAL	1,16,15,733

4. The ld. CIT (A) has deleted 50% of the bogus purchases and balance has been confirmed.

5. It has been brought on record that in assessee's case this Tribunal vide order dated 26/06/2023 wherein assessee had challenged the order of the ld. CIT(A) for confirming 50% of bogus

purchases. The Tribunal had remanded back this issue after observing and holding as under:-

“7 We heard the parties and perused the materials on record. We notice that the assessee neither responded to the notices issued by the Assessing Officer under section 148 nor filed any return of income. The Assessing Officer, based on communication received from the DDIT(Inv) with regard to the information received from sales-tax department, as per which, the assessee is involved in taking bogus entries towards purchases, has computed 100% of the purchases as non genuine and accordingly made the addition. The CIT(A), on the other hand, had admitted the additional evidences submitted by the assessee and has given partial relief only to the extent of 50% of the amount reflected in the stock register. On perusal of records, we notice that there are certain discrepancies in the figures considered by the CIT(A) for the purpose of disallowance and the figures as per assessee's stock register. It is also noticed that the CIT(A) did not call for any remand report from the Assessing Officer with regard to the additional evidences submitted by the assessee and there is per se violation of Rule 46A of the Income-tax Rules, 1962. Considering these facts, we are of the view that the issue should go back to the Assessing Officer for fresh verification of the evidences submitted by the assessee. Accordingly we remit the issue for a fresh verification to the Assessing Officer with a direction to consider the reconciliation statement of the stock register prepared by the assessee and also to keep in mind the decision of the Hon'ble Bombay High Court in the case of Mohammed Haji Adam & Co (supra) wherein Hon'ble Court held that profit embedded in the sale of bogus purchases can only be added since the Assessing Officer in the instant case as noted (supra) has not disturbed the sales figures shown by the assessee and decide accordingly. Needless to say that the assessee be given an opportunity of being heard.”

6. Since, the entire issue for purchases has been remanded back to the file of the Assessing Officer for fresh verification, therefore, we are remanding back this issue to the file of the

Assessing Officer in line with the direction given by the Tribunal. Accordingly, the appeal of the Revenue is allowed for statistical purposes.

7. In the result, appeal of the Revenue is allowed for statistical purposes.

Order pronounced on 4th December, 2023.

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Mumbai; Dated 04/12/2023
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai