

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**

**AND**

**SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER**

**ITA NO. 4202/MUM/2023 (A.Y: 2010-11)**

Rohit Vallabhdas Shah B-303, Dwarka Apartment Daulat Nagar, Borivali (E) Mumbai – 400066  <b>PAN: ACCPS2392B</b>	v.	Income Tax Officer – 42(1)(4) Kautilya Bhavan Bandra Kurla Complex Bandra (E), Mumbai - 400051
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee Represented by</b>	<b>:</b>	<b>Shri Anil Thakrar</b>
<b>Department Represented by</b>	<b>:</b>	<b>Smt Mahita Nair</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>25.04.2024</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>03.05.2024</b>

**ORDER**

**PER NARENDRA KUMAR BILLAIYA (AM)**

1. This appeal by the assessee is preferred against the order dated 27.09.2023 National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2010-11.

**2.** The grievance read as under: -

*"1) The Ld. CIT-(A) is erred in confirming the addition of Rs.63,70,738/- fully as bogus purchased @ 100% of such purchases.*

*2) The Ld. CIT-(A) is erred in considering the purchases as bogus in spite of the fact that, the sales made by the appellant was not doubted.*

*3) The Ld. CIT(A) at the time of passing the order U/s. .250 of the IT Act, Overlooked the ground no 3, Objecting the act of the Ld. A.O for not issuing valid service of notices U/s. 143(2)/142(1) of the act and did not comment anything on this particular ground, which is legal in the nature.*

*4) The appellant request to delete the addition confirmed by the CIT (A).*

*5) The appellant craves to add, alter or omit any or all of the above grounds of appeal before or at the time of hearing of the appeal."*

**3.** At the very outset, counsel stated that the issues raised vide Ground No. 3 are not pressed, therefore, the same are dismissed as not pressed.

**4.** Coming to the merits of the appeal, we find the underlying facts of the impugned addition of ₹.63,70,738/- are that, as per the information received from Sales Tax Department, the Assessing Officer came to know that the assessee has made bogus purchases from parties who are providing accommodation bills. On further probe, the Assessing Officer found that the assessee has failed to produce delivery challans, no supporting documents for acknowledgment of receipt of goods. The Assessing Officer was of the opinion that the assessee has furnished

bogus bills / accommodation bills from the supplier nor the assessee has produced the party for verification. The Assessing Officer concluded by treating the purchases as non-genuine and made the addition of ₹.63,70,738/-.

**5.** Assessee carried the matter before the Ld. CIT(A) but without any success.

**6.** Before us the counsel for the assessee vehemently stated that the Assessing Officer has grossly erred in making the entire addition on account of bogus purchases. It is the say of the counsel that only the profit margin should have been added. Counsel pointed out that the profit margin of the assessee is around 1.35% for the year under consideration.

**7.** Per contra, the Ld. DR supported the findings of the Ld. CIT(A).

**8.** We have given a thoughtful consideration to the orders of the authorities below. It is true that the assessee could not establish the identity of the parties and genuineness of the said transactions. It is also true that the assessee never denied that it has procured the accommodation bills to give color of genuine purchases. All that we

have to see is whether the Assessing Officer is justified in making 100% addition of the bogus purchase amount or he should have added only the profit margin earned by the assessee. The Hon'ble Gujarat High Court in the case of N.K. Industries Ltd., [(2016) 72 Taxmann.com 289] has held that once it comes to a categorical finding that the amount represents alleged bogus purchases from bogus suppliers it is not incumbent to restrict the disallowance and thereby directed to make addition of 100% of the alleged bogus purchases. The SLP preferred by the assessee against this decision of the Hon'ble High Court has been dismissed by the Hon'ble Supreme Court in SLP (C) CC No. 769 of 2017 dated 2017 dated 16.01.2017. We find that the First Appellate Authority has followed this decision of the Hon'ble Gujarat High Court. As no distinguishing decision has been brought to our notice in favour of assessee, we do not find any reason to interfere with the findings of the Ld. CIT(A).

**9.** In the result, appeal filed by the assessee is dismissed.

Order pronounced in the open court on 03<sup>rd</sup> May, 2024.

**Sd/-**  
**(SUNIL KUMAR SINGH)**  
**JUDICIAL MEMBER**

Mumbai / Dated 03.05.2024  
Giridhar, Sr.PS

**Sd/-**  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT 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, Mum**