

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No. 4165/M/2023
Assessment Year: 2011-12**

Mr. Zamirullah Subedarkhan Khan B.P.T., Plot No. 262, Kolsa Bunder, Darukhana, Reay Road, Mumbai- 400010. PAN: AABPK9505H	Vs.	ITO- Ward 20(3)(5), Room No. 205, Piramal Chamber, Lalbaug, Mumbai- 400012
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Manoj Kumar Singh, Sr. A.R.

Date of Hearing : 25 .04 . 2024
Date of Pronouncement : 30 .04 . 2024

O R D E R

Per: Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the order of the Ld. CIT Appeal passed u/s 250 of the Income Tax Act, 1961 [the 'Act' in short] vide order No. ITBA/NFAC/S/250/2023-24/1056652408(1) dated 29/9/2023 for the assessment year 2011-12.
2. The facts of the case, in brief, are that the assessee had filed its return of income declaring the total income at Rs.14,08,440/- which was processed



- u/s. 143(1) of the IT Act 1961. Subsequently, information was received from the office of DGIT (Inv.) Mumbai that the assessee was engaged in bogus purchase activities and had taken accommodation entries from the entry operators. During the assessment year under consideration the assessee had taken bogus purchases bills from one M/s. Mumbai Trading Company amounting to Rs.52,02,900/-
3. Based on the above information re-assessment proceedings were initiated u/s. 147 of the Act after recording reasons and after taking requisite approval of the PCIT-20 Mumbai.
 4. According to the assessing officer, the assessee could not furnish copy of purchase invoice from the said party. Even the notice issued to the Party u/s. 133(6) of the Act to the said party returned unserved. The Income Tax Inspector deputed by the Assessing officer to make enquiries about the existence of the said party also reported that the party was not found on the given address. The Assessing Officer, therefore, added a sum of Rs.52,02,900 u/s. 69C of the Act on the ground that the assessee has failed to establish that the purchases were genuine.
 5. The assessee filed appeal before the Ld. CIT Appeal who not only confirmed the addition made by the Ld. Assessing officer, but also upheld the reopening of assessment made u/s. 147 of the IT Act on the ground



that all statutory requirements for reopening of assessment were duly satisfied.

6. During the proceedings before us, the appellant submitted that though, it may be a case of bogus purchase, 100% addition on this count is excessive, arbitrary and not in accordance with the law.
7. We have carefully considered the grounds of appeal raised by the appellant and also the rival submissions made from both sides. There is no doubt that this is a case of bogus purchases, however, a reasonable profit of that purchase only is required to be added in the total income of the appellant as has been held by various coordinate benches of the Hon'ble Tribunal. Accordingly, the case is remanded to the Ld. CIT, Appeal to apply a reasonable profit rate in this case by taking into consideration the average profit declared by the appellant in preceding three years and succeeding three years.
8. In the result, the appeal is partly allowed.

Order pronounced in the open court on 30.04.2024.

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Mumbai, Dated: 30.04.2024.

Snehal C. Ayare, Stenographer



Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.