

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.4723/MUM/2023  
(Assessment Year :2010-11)**

**&**

**ITA No.4720/MUM/2023  
(Assessment Year :2010-11)**

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|--|-----|---|
| ACIT- Circle 4 2 1<br>Room No. 640, Aayakar<br>Bhavan, M. K. Road<br>Mumbai – 400020 | Vs. | E Eyres Rubber<br>Chemicals Pvt. Ltd.,<br>122/CD, Govt Industrial<br>Estate, Charkop,<br>Kandivali West, Mumbai -<br>400067 |
| <b>PAN/GIR No.AACCI2676K</b>   |     |   |
| <b>(Appellant)</b>   | ..  | <b>(Respondent)</b>   |

|                              |                        |
|------------------------------|------------------------|
| Assessee by                  | Shri. P. G. Jhunjuwala |
| Revenue by                   | Shri. P.D. Chougule    |
| <b>Date of Hearing</b>       | <b>15/05/2024</b>      |
| <b>Date of Pronouncement</b> | <b>21/05/2024</b>      |

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeals have been filed by the Revenue against separate impugned order of even date 31/10/2023 passed by NFAC, Delhi one in relation to the quantum of

assessment passed u/s.143(3) r.w.s. 147 and another in relation the penalty proceedings u/s.271(1)(c).

2. In the quantum appeal, the Revenue has challenged the order of the ld. CIT(A) wherein he has applied gross profit of 10% on the bogus purchases as against the addition made by the ld. AO of entire purchases of Rs.21,48,255/-. In the penalty order, the Revenue has challenged the levy of penalty of Rs.7,30,193/- in respect of addition made on account of entire purchases.

3. The brief facts are that assessee had filed its return of income on 13/10/2010 declaring income at Rs.1,78,50,955/- for A.Y.2010-11. The said return was duly processed and accepted u/s.143(1). Later on, based on certain information received from DGIT (Investigation), Mumbai alongwith detailed information received from Sales Tax department that assessee has taken accommodation entries in respect of bogus purchases of Rs.21,48,255/- made during the year from four parties. The ld. AO noted that assessee had shown sales of Rs.10,28,24,043/- as against the raw material consumed of Rs.7,00,64,896/- and arrived at net profit of Rs.1,12,48,703/- The ld. AO had made the entire addition on account of bogus purchases despite the source of purchases were from the books and assessee had submitted all the details. In the first appeal, the ld. CIT(A) after considering the entire facts and submissions and various judgments held that, once assessee had submitted all the details like purchase bills, ledger account of suppliers, delivery challans, corresponding sales, bank statements evidencing the payment by account payee cheques, held that at the most profit rate of 10%

would be reasonable on such purchases and accordingly, the addition has been restricted to Rs.2,14,825/-.

4. After hearing both the parties and on perusal of material placed on record, we find that once it is not in dispute the payments for the purchases have been from the books and through banking channels and assessee has also shown corresponding utilization in the manufacturing account and same has been accepted, then entire purchases could not have been added u/s.69C. Accordingly, we do not find any infirmity in applying the profit rate of 10% which is in line with the decision of the Hon'ble Bombay High Court in the case **of PCIT vs. Jagdish Thakkar in Income Tax Appeal No.781 of 2018 dated 05/08/2022** and in the case of **PCIT vs. S V Jiwani in Income Tax Appeal No.552 of 2018 order dated 03/10/2022**. Accordingly, the appeal of the Revenue is dismissed.

5. In so far as the penalty appeal is concerned, the ld. AO has levied the penalty on entire purchases, whereas in the quantum proceedings, addition has been restricted to the profit rate of 10% on adhoc basis. Once the assessee had declared purchases and produced all the corresponding bills including the delivery challans and the source of the purchases are through books and through account payee cheques and corresponding utilization of purchases and the manufacturing has not been disputed, then there cannot be any furnishing of inaccurate particulars or concealment of income on estimated profit rate of 10%. Accordingly, we hold that ld. CIT(A) has rightly deleted the penalty.

**6. In the result, both the appeals of the Revenue are dismissed.**

Order pronounced on 21<sup>st</sup> May, 2024.

**Sd/-**  
**(RATNESH NANDAN SAHAY)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 21/05/2024  
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**