

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.3557/Mum/2023
(A.Y. 2011-12)**

DCIT, C.C. 5(1) Room No.1928, 19 th Floor, Air India Building, Nariman Point, Mumbai – 400021	Vs.	Narendra G. Mehta HUF, Ground Floor, Pankaj Mahel, Opp, K.C. College, Church Gate, Mumbai – 400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAAHN8330A		
Appellant	..	Respondent

**C.O No.25/Mum/2024
(A.Y. 2011-12)**

Narendra G. Mehta HUF, Ground Floor, Pankaj Mahel, Opp, K.C. College, Church Gate, Mumbai – 400020	Vs.	DCIT, C.C. 5(1) Room No.1928, 19 th Floor, Air India Building, Nariman Point, Mumbai – 400021
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: : AAAHN8330A		
Appellant	..	Respondent

Appellant by :	M. Subramanian
Respondent by :	Ashok Kumar Ambastha

Date of Hearing	05.06.2024
Date of Pronouncement	19.06.2024

आदेश / ORDER

Per Amarjit Singh (AM):

The appeal filed by the revenue is directed against the order passed by the Id. CIT(A) NFAC. Since the appeal filed by the revenue and cross objection filed by the assessee are based on identical facts on

similar issue, therefore, for the sake of convenience both these appeals are adjudicated together.

ITA No.3557/Mum/2023

- “1. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in restricting the addition of commission income from providing the bogus purchase entry @ 0.1% of the total bogus purchase as against the addition determined by the Assessing Officer @of 1% the total bogus purchase entry u/s 69C of the IT Act, 1961 without appreciating the fact that the assessee itself accepted in the statement recorded that there was no any actual purchase made by it during the Financial Year under consideration.*”
2. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in restricting the addition of commission income from providing the bogus purchase entry @ 0.1% of the total bogus purchase amount only on the basis that the Assessing Officer in the case of Narendra G. Mehta Individual) for A.Y. 2012-13 has determined the addition @ 0.1% of the total bogus purchase for identical bogus purchase transactions?”*
3. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in not properly appreciating the fact the assessee has provided accommodation. Purchase entries to various entities whose name were appearing in list of bogus parties provided by the Sales Tax Department?”*
4. *The appellant craves to leave, to add, to amend and / or to alter any of the ground of appeal if need be.”*

2. Fact in brief is that return of income declaring total income of Rs.36,97,665/- was filed on 30.09.2011. The return was processed u/s 143(1) of the Act. Subsequently, the case of the assessee was reopened by issuing of notice u/s 148 of the Act on 09.04.2013 on the basis of information received in this office of the DGIT(Inv.) Mumbai from the Sale Tax Department that assessee had made bogus purchases from the parties who appearing in the list of bogus parties. The assessment u/s 143(3) r.w.s 147 was completed on 26.02.2015 assessing total income at Rs.37,10,10,010/-. Thereafter information was received from ADIT(Inv.) Raipur that assessee has received unaccounted money through banking channel. The assessing officer has reopened

the case u/s 147 of the Act by issuing of notice u/s 148 of the Act. The reason recorded for issuing the notice u/s 147 of the Act as reproduced in the assessment order is as under:

“The assessee has filed return of income for the year under consideration on 30.09.2011 declaring total income at Rs.36,97,665/-. The same has been processed u/s 143(1) of the Act. Thereafter, the case was selected for scrutiny and order u/s 143(3) r.w.s. 147 of the 1. T. Act was passed on 26.02.2015 and determining the total income of the Rs. 37,10,010/-.

2 The information was received from ADIT(Inv) -II, Raipur that account statement of Amba Automobiles (a/c no. 016105005299 ICICI Bank), Bherva Trading (A/c No. 1349050032 ICICI Bank), AchantaAppa Rao Dora (A/c No. 134801500297), Nem Singh Thakur (A/c No. 134801500193 with ICICI bank), Metro Hardware Mart Proprietor Mumtaz Ahamad (A/e No. 104905000487 with ICICI bank) and others were called for. After receiving the information from aforesaid bank, summons u/s 131(1A) were issued to Ambaram Choudhary Proprietor of Amba Automobiles, Shivlal Jalap Proprietor Bherva Trading, Nem Singh Thakur, AchantaAppa Rao Dora. The statement of Ambaramchoudhary, Shivlal Jalap, Nem Singh Thakur, AchantaAppa Rao Dora. The statement of Ambaram Choudhary, Shivlal Jalap, Nem Singh Thakur, AchantaAppa Rao Dora was recorded on oath

On examination of above mentioned accounts it is found that cash deposited in the accounts of Amba Automobiles, Bherva Trading, Nem Singh Thakur, AchantaAppa Rao Dora, Metro Hardware Mart was transferred to various parties. Some amount either after routing through different bank accounts or directly was transferred to the A/c no. 50193030000034, Syndicate Bank, Nariman Point, Mumbai pertaining to M/s S. N. Steel Corporation, Mumbai. On examination of bank statement of M/s S. N. Steel Corporation, Mumbai, it was found that a total of Rs. 77.76 crore was deposited through RTGS in this account. This amount was deposited at various bank in Raipur and was sent through RTGS in the account of M/s S. N. Steel Corporation, Nariman Point, Mumbai and then the same amount was transferred to the account of K Narendra & Company (HUF), Nariman Point, Mumbai. Both the above concerns belong to Shri Narendra G. Mehta, Mumbai. Subsequently, the amount of Rs. 77.76 crore was transferred from the account of K. Narendra & Co. to the account of Indian Steel & Infrastructure Put. Ltd. (A/c No. 911030026319191, Axis Bank and A/c No. 01881011001328, Oriental bank of Commerce Raipur. Therefore, it is clear that a lot of persons are engaged in routing the unaccounted money through banking channel and K. Narendra & Company & S. N. Steel Corporation (Both proprietor Narendra G. Mehta) is one of the parties who received unaccounted money through banking channel

A summons u/s 131 was also issued to Shri Narendra G. Mehta Proprietor of M/s S. N Steel Corporation. In response to summons, he attended the case on 17.09.2012. The statement of Shri Narendra G. Mehta was recorded on oath In his statement, he stated that whatever amount was transferred through RTGS in the bank account of M/s S. N. Steel Corporation from the accounts of Rahul Jalap, Shivlal Jalap, Nem Singh Thakur, AchantaAppaRoa

Dora and other persons was as per the directions of Shri Vijay Goya, Director of M/s Indian Steel & Infrastructure Pvt. Ltd., Raipur, The transactions between them were only for accommodation of entry regarding bogus sales. He accepted that for these transactions he gets commission @ 10 paise per Rs.100/-.

3 In view of the above premise, it comes to notice that assessee has failed to disclose fully and truly all material facts necessary for the completing assessment for the year under consideration.

4. On the basis of the aforesaid information available with the undersigned, I have reason to believe that income chargeable to tax, as indicated above, to the tune of Rs.77,76,00,000/- or any other income chargeable to tax which comes to notice subsequently in the course of proceedings for re-assessment, has escaped assessment within the meaning of section 147 of the IT Act 1961. The assessee has, therefore, failed to disclose true and complete particulars of income for the year under consideration.”

3. During the course of assessment the assessee submitted that the transaction between Shri Vijay Goal Director of M/s Indian Steel and Infrastructure Pvt. Ltd., Raipur were only accommodation entries regarding bogus sales. He had accepted that for these transactions he received commission @ 10 paise/100 rupees. It was also submitted that there was no actual purchases made from M/s Indian Steel & Infrastructure Pvt. Ltd. during the previous year and same was just accommodation entries of purchases given to M/s Indian Steel & Infrastructure Pvt. Ltd. in lieu of receipt of commission @ 0.1%. During the year the assessee had made transactions to the amount of Rs.16,41,55,000/-. After referring the above fact the AO stated that assessee was not engaged in any genuine transaction and only issuing accommodation entries in lieu of commission. Therefore, commission @ 1% for providing accommodation entries to the amount of Rs.16,41,55,000/- which comes to Rs.16,41,550/- was added u/s 69C of the Act to the total income of the assessee.

4. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has partly allowed the appeal of the assessee by restricting the addition u/s 69C at 0.01% instead of 1% made by the assessing officer.

5. Heard both the sides and perused the material on record. The karta of the assessee HUF in his statement had accepted that accommodation entries through banking channels via his proprietary concern M/s S.N. Steel Corporation and HUF proprietary M/s K. Narendra and Company were provided in lieu of commission @ 10 paisa per Rs.100 of the transaction amount. Further the case of Narendra G. Mehta for the assessment year 2012-13 has been finalised u/s 143(3) r.w.s 147 of the Act by the assessing officer on 17.12.2019 by assessing total such commission @ 10 paisa per Rs.100. Since, both these concerns are closely related and indulged in providing accommodation entries in lieu of commission therefore we do not find any error in the decision of the Id. CIT(A) in re-working the addition at 0.1% in the hand of the assessee. Therefore, ground no. 1 to 3 of the revenue are dismissed.

Cross Objection No. 25/Mum/2024

6. During the course of appellate proceeding before us the Id. Counsel has not pressed the cross objection filed by the assessee, therefore, the same stand dismissed.

7. In the result, the appeal of the revenue is dismissed and Cross Objection filed by the assessee is also dismissed.

Order pronounced in the open court on 19.06.2024

Sd/-

(Amit Shukla)
JUDICIAL MEMBER

Sd/-

(Amarjit Singh)
ACCOUNTANT MEMBER

Mumbai, Dated 19.06.2024

PS: Rohit

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,
सत्यापित प्रति //True Copy//

(Asst. Registrar)
ITAT, Mumbai