

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA 2281/Mum/2024
(Assessment Year: 2021-22)**

Amit Savlaram Parte Flat No.002, A Wing, B-43, Abhinandnan CHS, Gokuldharm Goregaon East, Mumbai-400 063 PAN : ASMPP4207G	vs	Commissioner of Income-tax (Appeals), Mumbai
APPELLANT		RESPONDENT

Assessee by : Shri Nimesh Chothani, C.A.
Respondent by : ShriManoj Kumar Sinha (SR.DR.)
Date of hearing : 04/07/2024
Date of pronouncement : / 07/2024

ORDER

PER ANIKESH BANERJEE, J.M:

Instant appeal of the assessee is preferred against the order of the National Faceless Appeal Centre, Delhi[for brevity, 'Ld.CIT(A)'] passed U/s 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2021-22, passed on dated 29.02.2024.The impugned orderwasemanated from the order of theNational e-Assessment Centre, Delhi (in short, 'the A.O. '), order passed undersection 144r.w.s. 144Bof the Act, date of order20/12/2022.

2. The assessee has taken the following grounds of appeal:-

"1. The learned Commissioner of income Tax (Appeals). Income Tax Department, NFAC Delhi violated the principles of natural justice while passing the order u/s 250 of the Income Tax Act inter aliam not giving a reasonable and sufficient opportunity of being heard.

2. The learned CIT(A) has erred in law and on facts in assessing the Assessed Income at Rs.5,45,41,780/- as against returned of Rs.65,50,030/- as filed by the Assessee in his return of income..

3. The learned CIT(A) has erred in law and on facts in assessing the Assessed Income at Rs.5,45,780/- as against returned income of Rs.65,50,00=30/- as filed by the Assessee in his return of income.

4. The learned CIT(A) has erred in law and on facts in making the disallowance of Rs.4,79,91,750/- i.e. 4,79,91,750/- i.e. 100 per cent of alleged bogus purchases of Rs.4,79,91,750/- without any basis as to percentage of alleged bogus purchases.

5. The learned CIT(A) has erred in treating the amount of purchases made by the Assessee of Rs.4,79,91,750/- as bogus purchases and adding the same to the total income of the Assessee without appreciating the fact that the addition of alleged bogus purchases cannot be made on the basis of the information available with the office of the AO in insight information summary without conducting an independent inquiry into facts of the statement made by third parties.

5. The learned CIT(A) has erred in law and on facts in levying interest u/s 234 of the Act.

6. Your appellant craves leave to add, amend, delete or alter any of the foregoing grounds of appeal."

2. Brief facts of the case are that the addition was made of Rs.4,79,91,750/- against the 100% of alleged bogus purchase in impugned assessment year. The

assessment was completed and the order is framed U/s 144 of the Act. The notice U/s 133(6) is issues related to four sellers for verification of purchases. The details of sellers are as follows: -

SI no	Name of Sellers	Amount (Rs,)
1	Sonali Singh	1,59,90,900.00
2	Nido Healthcare	98,29,150.00
3	Nakul Patel	1,69,30,700.00
4	Rajinder	52,41,000.00
	Total	4,79,91,750.00

Repetitive notices were issued, but the assessee was non-compliant before the Ld.AO for submitting their evidence in its favour. Finally, the addition was confirmed related to four parties amounting to Rs. 4,79,91,750/-. Being aggrieved, the assessee filed an appeal before the Id. CIT(A). The Ld.CIT(A) passed an orderex-parte by confirming the assessment order. Being aggrieved, assessee filed appeal before us.

3. The Ld.AR appeared and placed that the reasonable opportunity is denied by the assessee both in appeal and assessment proceeding. The assessee was unable to submit any evidence in favour of its claim. The Ld.AR prayed for further opportunity for submission of the documents before the revenue authorities.

4. The DR argued and fully relied on the order of the Revenue authorities.

5. We heard the rival submission and considered the documents available in the record. The perusal of assessment order the notices U/s 133(6) of the Act were issued to four purchasers of the assessee. But all are uncompiled. The finding of the Id. AO is that the parties are registered dealers under GST Act. But there no sales are reflected against the assessee. Either the sales are suppressed by the parties under GST Act or there are bogus transactions of purchase. The assessee remained un-complied in assessment proceeding, so the entire purchase amount of Rs.4,79,91,750/- is added back with the total income by treating it as bogus purchase.

6. In contra we peruse the submission of the Ld.AR and find that reasonable opportunity to the assessee before either of the authorities was denied and assessee was not able to submit its evidence before the authorities below. We are, therefore, of the opinion that interest of justice would be sub served if the impugned order is set aside and the matters are remitted back to the Id. CIT(A) for consideration thereof afresh. We are not expressing any views on the merits of the case so as to limit the appellate procedure before the Ld. CIT(A). Needless to say, the assessee should get a reasonable opportunity of hearing for setting aside proceedings. Concurrently, the assessee is directed to be diligent and comply with notices before the Id. CIT(A) during the remand proceedings.

7. In the result, the appeal in **ITA No.2281/Mum/2024** is allowed for statistical purposes.

Order pronounced in the open court on 09th day of July, 2024.

Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 09/07/2024

Pavanan

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

BY ORDER,

(Asstt. Registrar), ITAT, Mumbai