

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.3989/Mum/2023
(Assessment Year :2012-13)**

Income Tax Officer- 19(2)(2) R.No.503, 5 th Floor Income Tax Office Piramal Chambers Lalbaug Mumbai – 400 012	Vs.	Shri Kishor Pravinchand Sarkar Ground Floor, Giriraj Khotachi Wadi VP Road Mumbai – 400 004
PAN/GIR No.AAEPS6059H		
(Appellant)	..	(Respondent)

Assessee by	Shri D.C. Jain
Revenue by	Shri P.D. Chougule
Date of Hearing	04/07/2024
Date of Pronouncement	18/07/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the Revenue against order dated 14/09/2023 passed by NFAC Delhi for the quantum of assessment passed u/s.147 r.w.s.144 for the A.Y.2012-13.

2. The only ground raised by the Revenue is that ld. CIT(A) has erred in deleting the addition on account of bogus purchases by applying GP rate of 12.5% and confirmed the addition of

Rs.26,11,034/-, out of total addition on account of entire purchases made by the ld. AO at Rs.2,81,84,396/-.

3. The brief facts are that assessee has filed return of income on 28/09/2012 declaring total income of Rs. 7,75,327/-. Based on receipt of information from DGIT-Mumbai that assessee had made purchases from M/s. Rajan Gems for Rs.2,81,84,396/-, who is a hawala entry provider for purchases, assessee's case was reopened u/s.147 vide notice u/s 148 dated 12/03/2019. The ld. AO had made the entire addition of the purchases u/s.69C. The ld. CIT (A) following the judgment of the Hon'ble High Court in the case of **PCIT vs. Moghammad Haji Adam & Co. reported in 103 taxmann.com 459** and other decisions held that GP rate of 12.5% should be applied on such purchases.

4. After hearing both the parties and on perusal of the impugned order, it is seen that assessee had shown the purchases in the books and had paid the purchase amount in cheques. The quantity of purchases and the corresponding sales have not been doubted. Once the purchases have been disclosed in the books and the ld. AO has accepted the quantity of purchases and sales, then we do not find any reason for treating the entire purchases as bogus which will distort the trading account enhance the overall GP. Now is a well settled by the Hon'ble Bombay High Court in the case of PCIT vs. Moghammad Haji Adam & Co (supra) and in the case of PCIT vs. S.V. Jiwani 449 ITR 583, wherein it has been held that entire bogus purchases cannot be added and at the most some GP rate should

be applied. Since the ld. CIT (A) held 12.5% and there is no cross appeal by the assessee, therefore the GP rate of 12.5% as applied by the ld. CIT (A) is upheld.

5. In the result, appeal of the Revenue is dismissed.

Order pronounced on 18th July, 2024.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Mumbai; Dated 18/07/2024
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

