

**IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH MUMBAI**  
**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER**  
**AND**  
**SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.4427/MUM/2023**  
**Assessment Year: 2012-13**

Deputy Commissioner of Income Tax – 19(3), Mumbai	Vs.	RAG Corporation, EC 6010, Bharat Diamond Bourse, BKC, Bandra (East), Mumbai – 400051  (PAN : AAAFR2793P)
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Assessee : Shri K.A. Vaidyalingan, CA  
Revenue : Smt. Mahita Nair, Sr. DR

Date of Hearing : 10.07.2024  
Date of Pronouncement : 22.07.2024

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the Revenue is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order no. ITBA/NFAC/S/250/2023-24/1056886798(1), dated 09.10.2023 passed against the assessment order by Assistant Commissioner of Income Tax – 23(3), u/s. 147 r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 16.12.2019 for Assessment Year 2012-13.

2. The moot point involved in the present appeal by the Revenue is in respect of estimation of gross profit made on the alleged bogus purchases arising out of accommodation entry of sales and purchases

without actual delivery of goods, based on information received from DGIT (Inv), Mumbai. Revenue has taken as many as eight grounds in this respect, all of which relate to aforesaid issue whereby Ld. CIT(A) has reduced gross profit to 3% as against 100% addition made by the Assessing Officer on account of bogus purchases of Rs.2,60,65,864/-.

3. Brief facts of the case are that assessee is a partnership firm dealing in the business of cutting and polishing diamonds. Assessee filed its return of income on 27.08.2012 reporting total income at Rs.1,04,81,771/-. Case of the assessee was re-opened u/s.147 owing to search and survey action carried out by the Department in the case of Mr. Bhanwarlal Jain Group on 03.10.2013. In the course of assessment, assessee was asked to substantiate the purchase transactions carried out by it with M/s. Mohit Enterprises and M/s. Mayur Exports which were alleged to be belonging Mr. Bhanwarlal Jain Group.

3.1. According to the assessee, purchases made by it from these two concerns were in the ordinary course of business which are genuine. Assessee furnished all the required details and documents in support of the purchase transactions undertaken by it with these two parties. These included confirmatory statements, which contained details as to name, address, PAN of the suppliers, retail invoices giving details as to particulars of polished diamonds sold, rate per carat, VAT and GST TIN numbers. Assessee also furnished affidavit affirming the transaction along with delivery of goods. It was submitted that the payments for these transactions were made through banking channels for which banks statements were also placed on record. Assessee also mapped these purchases with its sale transactions which were sold by way of exports. These were also corroborated with relevant documentary

evidences placed on record. Assessee had also furnished copies of audited trading and profit and loss account as well as balance sheet of these two suppliers.

3.2. Despite these submissions and explanations, ld. Assessing Officer took an adverse view and completed the assessment by making the addition of Rs.2,60,65,864/- u/s. 69C towards purchases made from these two concerns.

4. Aggrieved, assessee went in appeal before the ld. CIT(A), who after considering the details and documents on record and further explanations furnished by assessee, took 3% as the gross profit rate on the alleged bogus purchases which was added in the hands of the assessee by taking into account the observations of Hon'ble Jurisdictional High Court of Bombay in the case of Mohmmad Haji Adam & Co. in ITA No.1004 of 2016. Further, in assessee's own case in Assessment Year 2011-12 and 2013-14, on identical facts and circumstances, Ld. Assessing Officer himself had made addition to the extent of 3% on the disputed purchases in those respective years. Thus, the addition was sustained to the extent of 3% of alleged bogus purchase transaction against which Revenue is in appeal before the Tribunal.

5. We have heard both the parties and taken note of the facts narrated above. The issue before us is squarely covered by the decision of Hon'ble Jurisdictional High Court of Bombay in the case of Mohmmad Haji Adam & Co. (supra). Further-more, Revenue has itself accepted 3% of gross profit on the alleged bogus purchase transactions in assessee's own case for Assessment Year 2011-12 and 2013-14. The year under consideration is intervening year between the two. This state

of fact also fortifies the case of the assessee. Accordingly, we do not find any reason to interfere in the factual findings of the Id. CIT(A). Thus, grounds taken by the Revenue are dismissed.

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

Order is pronounced in the open court on 22 July, 2024

Sd/-  
(Satbeer Singh Godara)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

***Dated: 22 July, 2024***

*MP, Sr.P.S.*

**Copy to :**

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai