

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "K(SMC)", MUMBAI

BEFORESHRI. AMARJIT SINGH (ACCOUNTANT MEMBER) AND
SHRI ANIKESH BANERJEE (JUDICIAL MEMBER)

ITA No.1784/Mum/2024
(Assessment Year: 2011-12)

Continuity Printers 31, Navnidhi Indl Estate, A.D.Marg, Sewree, Maharashtra-400 015 PAN : AAMFC5014C	vs	ACIT 20(1) Piramal Chamber, Lalbaug, Parel, Maharashtra-400012
APPELLANT		RESPONDENT

Assessee represented by	Shri Ashok Bansal a/w Shri Ajay Daga
Department represented by	Shri Dhiraj Kumar, Sr. DR

Date of hearing	15/07/2024
Date of pronouncement	/07/2024

ORDER

PER ANIKESH BANERJEE (JM):

Instant appeal of the Revenue was filed against the order of the Ld. Commissioner of Income Tax, Appeal ADDL/JCIT (A)-6 Kolkata [in short, 'Ld.CIT(A)'], date of order 12/02/2024 for A.Y. 2011-12 order passed under section 250 of the Income-tax Act, 1961(in short, the Act). Impugned order was emanated from the order of the Id.Asst. Commissioner of Income Tax-20(1), Mumbai (in short Id. AO), order passed under section 143(3)r.w.s. 147, date of order- not specified.

2. The Revenue has taken the following grounds: -

3. Brief facts of the case are that the assessment was completed under section 148 on the basis of information received from the DGIT(Inv) related to bogus purchase from the different parties which amount to Rs.22,20,594/-. The Id.AO made the addition of disputed purchases with the total income of the assessee U/s 69C of the Act. The aggrieved assessee filed an appeal before the Id. CIT(A).Ld.CIT(A) passed the appeal order and rejected the appeal of the assessee. Being aggrieved on the appeal order, the assessee filed an appeal before us.

4. The Id. AR vehemently argued and prayed for restrict the addition @12.5% of the bogus purchase determined by the Id. AO. The Id. AR further argued that the transactions with the purchasers are through banking channel, the invoice and road challans are duly filed before the revenue authority as proof of genuineness of the transaction. But the Id. AO only relied on the information of the Maharashtra VAT department and added back the entire disputed purchase amount u/s 69C of the Act. The Id. AR has drawn our attention on the relevant paragraph of assessment order which is reproduced below: -

.....B.....

5. The Id. DR vehemently argued and placed that 12.5% of the disputed purchase amount to Rs.22,20,594/- is unjustified and prayed for upheld the addition. The Id. DR relied on the appeal order. The relevant paragraphs are reproduced as below: -

.....A.....

6. We heard the rival contentions and considered the documents available on record. The issue related to addition of @12.5% of the disputed purchases is already decided by this bench in other cases. Considering the binding precedence, we set aside the appeal order. On the other hand, the sales were also executed depending on the purchases of materials. In the transaction, the purchases and sales are interlinked during this impugned financial year. We respectfully relied on the order of Hon'ble **Bombay High Court** in case of **PCIT vs S.V. Jiwani (2022) 145 taxmann.com 230 (Bom)** wherein involving similar set of facts and circumstances of the case, the Hon'ble jurisdictional High Court has upheld the decision of the Hon'ble ITAT, Mumbai Bench that addition to the extent of @12.5% of the bogus purchases is fair and reasonable. The Ld. Assessing Officer had not rejected the sale of assessee but only the purchase. Hence, the addition amount of Rs. 22,20,594/- is quashed. We direct the Ld. AO to restrict the addition @12.5% on bogus purchase amount to Rs. 22,20,594/- which works out to Rs. 277,574/-. The addition is restricted amount to Rs. 277,574/-. The appeal of the assessee is considered on merit & **Ground no-4** is allowed. So, the other grounds remain only for academic purpose.

8. In the result, appeal in **ITA No. 1784/Mum/2024** of the assessee is allowed.

(AMARJIT SINGH)

ACCOUNTANT MEMBER

Mumbai, दिनांक / Dated: /07/2024

Pavanan

(ANIKESH BANERJEE)

JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी / The Appellant ,

Copy of the Order forwarded to:

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

BY ORDER,

//True Copy//

(Asstt. Registrar), ITAT, Mumbai

	Details	Date	Initials	Designation
1	Draft dictated on PC on	16.07.2024		Sr.PS/PS
2	Draft Placed before author	16.07.2024		Sr.PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS/PS
7.	File sent to the Bench Clerk			Sr.PS/PS
8	Date on which the file goes to the Head clerk			
9	Date of Dispatch of order			