



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT  
MEMBER AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1278/PUN/2024  
निर्धारण वर्ष / Assessment Year: 2012-13

Ms.Saksham Industries, At govindpur Post, Gour Tq Purna District Parbhani – 413511. Maharashtra. PAN: ABWFS1236M	Vs	The Income Tax Officer, Parbhani.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Prateek Jha – AR
Revenue by	Shari Sandeep P Sathe – JCIT(DR)
Date of hearing	21/08/2024
Date of pronouncement	23/08/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This appeal filed by the assessee is against the order of  
ld.Commissioner of Income Tax-(Appeal)-6/JCIT, Kolkata under  
section 250 of the Act, dated 04.04.2024 for the Assessment Year  
2012-13. The assessee has raised the following grounds of appeal :

*“The CIT Appeals has erred in appreciating the fact that the AO during the course of assessment proceedings and also during appellate proceedings has not provided the any document containing information of cash purchase from one M\_s Monarc Multilayer Pvt Ltd Nagpur in spite of specific requests.*



*The CIT Appeals erred in arriving at the conclusion that AO was having enough evidences in support of AOs action but at the same time contradicted by observing that circumstantial evidence can be relied in respect of cash transactions made with other than bank.*

*The CIT Appeals has erred in law and on facts in holding that there was no need for the AO to provide the copies of correspondences or any documents in possession of the Dept\_ even on express request \_ although the AO has placed heavy reliance on the said evidence while making the addition as per section 40A.3*

*The CIT Appeals has erred in not appreciating the fact that no opportunity to cross examine the concerned party from whom the alleged purchases were made was provided where the assessee has completely denied to have made such cash purchases during the year.*

*The CIT Appeals has erred in not appreciating the fact that during the entire FY 2011-12 the total sales were for Rs582217.00 whereas the total purchases were 558525.00 and thus it is unlikely to have made purchase of Rs336551.00 on a single day considering the extend of business conducted.*

*The CIT Appeals erred in upholding the AOs presumption that assessee has incurred expenditure in violation of provisions of section 40A.3 when there is no factual finding of the AO as to incurring of expenditure of Rs336551.00 for purchases included in total purchases for year for Rs558525.00.*

*The CIT Appeals has erred in concluding that the providing the information of cash purchases with details of goods purchased\_ copy of the bill or any document which indicated the purchase by the assessee from the above mentioned concern was not mandatory though the information was used against the assessee in assessment proceedings.*

*The CIT Appeals erred in law and facts ignoring the legal position considered by various judicial authorities that if no copy of material \_ documents \_ statements containing information of cash purchases as referred in the assessment order and ultimately relied by the AO to support the addition were not confronted to the appellant during assessment and appellate proceedings \_ the material has to be ignored.*

*The appellant prays for cancellation of the order.*



*The appellant prays to add \_ alter \_ modify \_ take additional grounds \_ withdraw the ground \_ submit additional evidence during appellate proceedings.”*

**Submission of Id.AR :**

2. The Id.AR for the Assessee submitted that in this case, Assessing Officer(AO) made addition u/sec.40A(3) of Rs.3,36,551/- alleging that assessee had made cash purchases in a day of Rs.3,36,551/- from M/s.Monarch Multilayer Pvt. Ltd., Nagpur. AO made addition u/sec.40A(3) of the Act. Ld.AR submitted that Assessee has not made any purchases during the year from M/s.Monarch Multilayer Pvt. Ltd., Nagpur. Assessee had asked AO to provide copy of the information received by AO, on the basis of which notice u/s.148 of the Act was issued. However, till date, no such information has been provided. Ld.AR submitted that the AO was not having any information and notice u/sec.148 is bad in law. Ld.AR also submitted that AO has violated principle of natural justice, hence assessment order is bad in law. Ld.AR further submitted that during the year, total sale of the assessee was only Rs.5,82,217/- and total purchases were only Rs.5,58,525/-. Therefore, there cannot be a purchase of Rs.3 lacs in a day. Ld.AR pleaded that addition is bad in law and hence may be deleted.

**Submission of Id.DR :**

3. The Id.DR for the Revenue relied on the order of AO and Ld.CIT(A).

**Findings & Analysis :**

5. We have heard both the parties and perused the records. On perusal of the assessment order and Id.CIT(A)'s order, it is observed that AO had not provided copy of the reasons and information to the assessee, though assessee had asked for copy of the information.

5.1 AO has made addition u/sec.40A(3) of the Act on account of impugned cash purchases in a day from M/s.Monarch Multilayer Pvt. Ltd., Nagpur. The assessee has categorically denied that assessee had not made any purchases from M/s.Monarch Multilayer Pvt. Ltd., Nagpur. Once assessee had denied any transaction with M/s.Monarch Multilayer Pvt. Ltd., the onus shifted to the Assessing Officer to prove the allegation. In this case, AO has not brought on record any positive evidence to prove that assessee has made cash purchases from M/s.Monarch Multilayer Pvt. Ltd. In these facts and circumstances of the case, we



are convinced that the addition made by the AO is not sustainable, therefore, we direct the Assessing Officer to delete the addition of Rs.3,36,551/-. Accordingly, grounds of appeal raised by the assessee are allowed.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 23<sup>rd</sup> August, 2024.

**Sd/-**  
**(VIJNAY BHAMORE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 23<sup>rd</sup> August, 2024/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, “एस एम सी” बेंच, पुणे / DR, ITAT, “ SMC” Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.