

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA Nos.1438 & 1443/M/2024  
Assessment Years: 2017-18 & 2018-19**

<b>Income Tax Officer-12(1)(1),</b> Room No.129, Aayakar Bhavan, M.K. Road, Mumbai-400020.	Vs.	<b>M/s. Arudha Traders Private Limited,</b> A-204, Vrindavan CHS, New Saibaba Nagar, Kandivali (W), Mumbai-400 067 Maharashtra <b>PAN: AAICA3317K</b>
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Rakesh Joshi, C.A.

Revenue by : Shri Manoj Kumar Sinha, Sr. DR

Date of Hearing : 25.07.2024

Date of Pronouncement : 22.08.2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

These appeals have been preferred by the Revenue against the order even dated 29.01.2024, impugned herein, passed by the Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18 & 2018-19.

2. Both the cases are based on the identical facts and circumstances, except variation in amounts and therefore the same were heard together and are being disposed of this composite order and considering **ITA Nos.1438/M/2024** as a lead case.

### 3. **ITA Nos.1438/M/2024**

In this case, the Assessing Officer (AO) during the reopened proceedings u/s 147/148 of the Act observed that the Assessee has shown purchases to the tune of Rs.8,53,46,554/- from three parties i.e. One World Creations, R.K. Impex Pro. Manish Kapadia HUF & R.M. Textiles Prop. Rekha Kapadia respectively to the tune of Rs.6,62,10,000/-, Rs.3,36,555/- & Rs.1,87,99,999/- and therefore in order to verify the said transactions, by issuing a show cause notice dated 09.03.2022 show caused the Assessee as to why the aforesaid transactions should not be taken as non-genuine and disallowed. In response the Assessee filed its reply along with ledger account; check payment etc., however, failed to produce other documents such as delivery challenges, lorry receipts, transportation details etc.

The AO therefore by considering the peculiar fact that the aforesaid parties have admitted in front of DDIT (Inv.), Mumbai that they have not made any sale or purchase transactions which proves that purchases shown to have been made by the Assessee from these firms are non-genuine and bogus. The Assessee has recorded such purchases in the books of account. It is gathered that malpractice of bogus purchase is mainly to save 10% of sales tax etc. As it has also been informed that in this industry

the profit margin is about 2.5%, hence 12.5% of the bogus purchases of Rs.8,53,46,554/- i.e. Rs.1,06,68,319/- is added back to the returned income of the Assessee and accordingly the same is brought to the tax u/s 68 of the Act.

**4.** The Assessee, being aggrieved, challenged the aforesaid addition before the Ld. Commissioner, who though affirmed the aforesaid addition, however, restricted the same to the extent of 2.5% of purchases made, against which the Revenue Department is in appeal before us.

**5.** The Ld. D.R. at the outset submitted that the Ld. Commissioner wrongly interpreted the finding of the AO that the AO has added 10% on account of sales tax and another 2.5% on the profit margin. But it was not the intention of the AO in making the addition @ 12.5%. May be the AO has wrongly recorded in para-no.6 of the assessment order that in this industry profit margin is about 2.5%, which cannot be construed that the margin determined by the AO is 2.5% only. Even otherwise, if the Assessee is accepting the bogus purchases, then the addition @ 100% is required to be made.

**6.** On the contrary the Ld. A.R. has submitted that in order to buy peace of mind the Assessee has not challenged the addition restricted to 2.5% by the Ld. Commissioner. However, it is categorically recorded by the AO that in this industry about 2.5% of the profit margin is enough, therefore the AO should have made the addition @ 2.5% only and thus the order passed by the Ld. Commissioner in restricting the addition @ 2.5% warrants no

interference, as the same is neither perverse nor suffered from impropriety and/or illegality.

**7.** We have given thoughtful considerations to the peculiar facts and circumstances of the case. We observe from the assessment order that the AO consciously recorded that malpractice of bogus purchases is mainly to save 10% of sales tax etc. and the profit margin in the industry in which the Assessee is working/dealing is 2.5% only, whereas the Ld. Commissioner has also consciously recorded the fact that Sales Tax/VAT is not applicable in the products dealt with by the Assessee and therefore deleted the addition of 10% of the purchases under consideration. We even otherwise do not find any material and/or reason to contradict the findings arrived and taking the decision by the Ld. Commissioner for restricting the addition to the extent of 2.5% of the alleged bogus purchases. Hence on the aforesaid analyzations, impugned addition as restricted by the Ld. Commissioner is affirmed. Thus, the appeal under consideration i.e. ITA Nos.1438/M/2024 is dismissed.

**8.** In the result, in view of our decision in ITA Nos.1438/M/2024, both the appeals under consideration filed by the Revenue Department stands dismissed.

**Order pronounced in the open court on 22.08.2024.**

**Sd/-**  
**(GAGAN GOYAL)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(NARENDER KUMAR CHOUDHRY)**  
**JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.