



IN THE INCOME TAX APPELLATE TRIBUNAL
"E" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAHUL CHAUDHARY, JM

ITA No. 3584/MUM/2024

A.Y.2012-13

Kanakraj Jewellers Pvt.
Ltd.
MATRUCHAYYA, Dawood
Baug Road,
Andheri West,
Mumbai

Vs.

Asst. Commissioner of
Income Tax-10(1)(2),
Mumbai

(Appellant)

(Respondent)

PAN

AACCK 8393D

Assessee by

Shri Raj Kumar Singh

Revenue by

Shri P.D. Chougule (Addl.CIT)

Sr. (DR),

Date of hearing

22nd August, 2024

Date of pronouncement

28th August 2024

ORDER

PER PRASHANT MAHARISHI, AM:

1. This appeal is filed by the assessee against the appellate order passed by the National Faceless Appeal Centre (NFAC), Delhi



for the Assessment Year (A.Y.) 2012-13 dated 10.06.2024 wherein the appeal filed by the assessee against the reassessment order passed u/s. 143(3) read with section 147 of the Income Tax Act, 1961 (the Act) dated 09.12.2019 was partly allowed.

2. The assessee is aggrieved with the same and has raised the ground that the learned CIT(A) has erred in restricting the addition on account of impugned hawala purchases of Rs. 30,67,810/- to 4% instead of deleting the entire disallowance wrongly made by the Assessing Officer @ 100 % of Bogus Purchases.
3. The brief facts of the case was that the assessee company, engaged in the business of manufacturing and reselling of jewellery, filed return of income on 27.09.2012 at a total income of Rs. 27,58,020/-. The case was not selected for scrutiny. However, subsequently, the information was received about the bogus *havalas* purchases obtained by the assessee amounting to Rs. 30,67,810/- from M/s Keshav Impex [prop. MR. Anil Chokhara]. The notice u/s. 148 was issued on 29.03.2019 which was responded by the assessee. On 02.04.2019 by filing the return of income at the original return. Subsequently, the notices u/s. 143(2) and 142(1) of the Act were issued. The reason for reopening was also provided to the assessee, which was objected to and duly disposed off on 24.10.2019.
4. The assessee was asked to explain the transaction of purchase from Shri Anil Chokhara proprietor of M/s. Keshav Impex for which information was received that he is engaged in providing



bogus bills. The assessee submitted relevant details as available including sale of such goods to other parties which was purchased from tainted party. Subsequently, the notice under Section 133(6) and 131 of the Act was issued to the M/s Keshav Impex, which returned unserved. The assessee was asked to produce the party but neither the summons was honored nor assessee could produce the party. The Assessing Officer held that assessee has merely obtained the accommodation bill and has not purchased the goods. Therefore, he make the addition of total amount of such bogus purchases to the total income of the assessee holding that the evidences produce do not show the genuineness of the transaction. Reassessment order was passed on 09.12.2019 determining the total income of the assessee at Rs. 58,25,830/-

5. The assessee challenged the same before the learned CIT(A). The learned CIT(A) following the various judicial precedent of ITAT in the case of Vipul Diamond restricted the addition to the extent of 4% of the bogus purchases of Rs. 30,67,810/-. The assessee is aggrieved with that appellate order and is in appeal before us.
6. The learned Authorized Representative (AR) filed a paper book containing 64 pages wherein it was the main argument that the addition made in the hands of the assessee is excessive and should be restricted to 1%.
7. The learned Departmental Representative (DR) also supported the order of the learned CIT(A).



8. We have carefully considered the rival contentions and have perused the orders of the learned lower authorities. The simple issue involved in this appeal is that there is an allegation of bogus purchases of Rs. 30,67,810/-, genuineness of which could not be proved by the assessee by producing the party and, therefore, the learned Assessing Officer made the addition to the extent of 100% which was restricted by the learned CIT(A) to 4% relying on judicial precedents of ITAT . Now we have binding juduicial precedents of Honourable Bombay High court in **Mohammad Haji Adam & Co. [2019] 103 taxmann.com 459 (Bombay)**. We find that the assessee has shown the N.P. @ 5.97% on total purchases of Rs.367,24,497/- . Out of that the tainted purchases are stated to be Rs. 30,67,810/- . The assessee has shown that the goods which were purchased from M/s Keshav Impex have been sold for Rs.33,06,992/- whereas the purchases are 30,67,810/- . As the assessee has shown profit of approximately 10% which is higher than the regular N.P. shown by the assessee, naturally following the decision of the Hon'ble Bombay High Court no further addition is required to be made. Therefore, we direct the learned Assessing Officer to delete the addition.

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

Order pronounced in the open court on 28/08/2024.

Sd/-

(RAHUL CHAUDHARY)
(JUDICIAL MEMBER)

Sd/-

(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 28.08.2024

Aks/-



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Kanakraj Jewellers Pvt. Ltd.
Versus
ACIT

Copy of the Order forwarded to :

The Appellant, The Respondent, The CIT, The DR ITAT & Guard File

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai