

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "J(SMC) " Bench, Mumbai.

Before Shri Narender Kumar Choudhry (JM)
& Shri Omkareshwar Chidara (AM)

I.T.A. No. 2587/Mum/2024 (A.Y. 2012-13)

Nikita Animal Feeds Pvt. Ltd. 102, UMA Shikhar 13 th Road, Khar Maharashtra-400 052. PAN : AABCN2784N (Appellant)	Vs.	ITO, Ward 14(2)(3) Room No. 431 4 th Floor Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	Shri Dilip Gurani
Department by	Shri Dinesh A. Chourasia
Date of Hearing	22.08.2024
Date of Pronouncement	30.08.2024

ORDER

Per Omkareshwar Chidara (AM) :-

In the above cited case, the learned Assessing Officer (Ld. AO for short) received information from ADIT(Inv), Indore that the appellant took some accommodation entries by way of fictitious purchase invoices from Hanuman Sales Corporation/M/s. Indore Impex. Based on the information received, Income Tax assessment of the appellant was reopened and addition of Rs. 8,34,945/- was made on estimate basis @ 12.5% profit on the total bogus purchases.

2. The appellant was asked by the Ld. AO to provide lorry receipt, delivery challan and transportation details of goods, which were mentioned in the fictitious purchase bills. The appellant failed to produce the same and hence an addition of Rs. 8,34,945/- was made being 12.5% profit earned on fictitious bills of Indore Impex and Hanuman Sales Corporation. The Ld. AO

has concluded that the appellant company reduced the taxable profit by taking accommodation entry of Rs. 66,29,561/-. The Ld. AO decided that the appellant has earned 12.5% of these bills as profit and made above addition.

3. Aggrieved by the addition made by the Ld. AO, an appeal was filed before the learned Commissioner of Income Tax (Appeals) (Ld. CIT(A) for short) and the Ld. CIT(A) passed an order u/s. 250 of the Act confirming the addition made by the Ld. AO adjudicating that the appellant has not offered satisfactory explanation relating to the accommodation entries used to reduced taxable income. Accordingly, 12.5% of the total accommodation entry was confirmed by the Ld. CIT(A).

4. Aggrieved by the order of the Ld. CIT(A), second appeal was filed before the ITAT, Mumbai with elaborate 13 grounds of appeal. Crux of all these grounds of appeal is that all the purchases made by the appellant are genuine and he has not taken any accommodation entries from anybody and hence estimation estimated basis of 12.5% of profit being added to the taxable income is incorrect. The appellant has quoted certain cases law questioning the reopening of the assessment also.

5. During the proceedings before Hon'ble ITAT Mumbai, Ld. AR of the appellant is present alongwith his Director of the appellant company concerned. Both the Ld. AR of the appellant as well as Director of the appellant company have submitted that all their purchases are absolutely genuine and they did not take any accommodation entries from any concerns. The Director of the appellant company has submitted before the Bench that he personally supervise all the purchases and sales and all parties are identifiable through brokers who supplied goods to the company. But the Director as well as Ld. AR of the appellant have expressed inability to produce the purchasers as mentioned in the purchase bills because of the two reasons:-

- a) Purchases were made more than 12 year back and also purchases were arranged through brokers, which may not be readily available right now to prove the genuineness of purchases. It was agued that all the purchases were genuine.
- b) It was also argued that estimation of profit @ 12.5% by the Ld. AO is on higher side. Appellant company will not get such huge profits on sales made by them.

6. Ld DR has supported the orders of the Ld. AO and the Ld. CIT(A) and argued that the appellant could not produce the basic documents like transportation vouchers. Moreover, the appellant himself is admitting that persons from whom purchases were made, cannot be produced now for examination. In view of the same, Ld. DR has argued that the percentage of profit adopted by the Ld. AO is correct and should be confirmed.

7. After carefully considering the arguments of Ld. DR on one side and Ld. AR of the appellant and director on the other side, in the peculiar facts and circumstances, it is decided that 5% of the profit on purchases made by the appellant would meet the ends of justice because the appellant company was showing very meagre net profit of Rs. 3.5 lakhs only in the Return of Income. Thus 5% of the total purchases, instead of 12.5% is hereby confirmed as profit on the purchases added by the Ld. AO.

8. The appeal of the appellant is partly allowed as mentioned above.

Order pronounced in the open court on 30th August, 2024.

Sd/-
(Narender Kumar Choudhry)
Judicial Member

Sd/-
(Omkareshwar Chidara)
Accountant Member

Mumbai : 30.08.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai