

**| आयकरअपीलीयअधिकरणन्यायपीठ,मुंबई|**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**  
**&**  
**SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER**

**I.T.A. No.6291/Mum/2019**  
**(Assessment Year:2011-12)**

<b>Mr. Jethmal Panchanmal Chandan,</b> Shop No.23, 234/240, Gr. Floor 13 <sup>th</sup> Khetwadi, V P Road Mumbai - 400 004 <b>[PAN: AGQPC1878G]</b>	Vs	<b>The Income Tax Officer,</b> <b>Ward-19(2)(1),</b> <b>Mumbai</b>
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<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
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Assessee by :	None
Revenue by :	Smt. R.M. Brindha, Addl. JCIT

**सुनवाई की तारीख/Date of Hearing : 24.09.2024**  
**घोषणा की तारीख /Date of Pronouncement: 24.09.2024**

**आदेश/O R D E R**

**PER NARENDRA KUMAR BILLAIYA, AM**

This appeal by the assessee is preferred against the order of Id. CIT(A)-30, Mumbai dated 29/07/2019 pertaining to Assessment Year 2011-12.

2. The assessee is aggrieved by the enhancement of the addition of Rs.12,06,777/- made by the AO to Rs.48,27,110/- made by the CIT(A).

3. None appeared on behalf of the assessee inspite of notice. In fact, the notice sent through RPAD returned back with the remark "not known". We decided to proceed *ex parte*. The DR was heard at length. The case records carefully perused.

4. The assessee filed the return of income on 29/09/2011 declaring total income of Rs.3,06,050/-.

5. The return was selected for scrutiny assessment and during the course of the scrutiny assessment proceedings, the AO came to know the information received from the Sales Tax department that the assessee was involved in taking accommodation entries in the form of bogus purchases and such bogus purchases were to the tune of Rs.48,27,110/-. The assessee was asked to furnish the details of such purchases alongwith purchase details, invoices/bills, copies of ledger account. On receiving no plausible reply, the AO estimated the profit at 25% and made addition of Rs.12,06,777/- being 25% of the bogus purchases of Rs.48,27,110/-.

6. Assessee carried the matter before the CIT(A) and reiterated its contention that the purchases are genuine and corresponding sales have been accepted.

7. After considering the facts and submissions, the CIT(A) was of the opinion that the AO should have made the addition of the entire

bogus purchase and accordingly, enhanced the assessment to 100% of the bogus purchases amounting to Rs.48,27,110/-.

8. We have carefully perused the order of the authorities below. We find that the Hon'ble High Court of Bombay, in the case of PCIT v. Mohommad Haji Adam & Co. reported in [2019] 103 taxmann.com 459 (Bombay) , under identical situation, held as under:-

*"8. In the present case, as noted above, the assessee was a trader of fabrics. The A.O. found three entities who were indulging in bogus billing activities. A.O. found that the purchases made by the assessee from these entities were bogus. This being a finding of fact, we have proceeded on such basis. Despite this, the question arises whether the Revenue is correct in contending that the entire purchase amount should be added by way of assessee's additional income or the assessee is correct in contending that such logic cannot be applied. The finding of the CIT(A) and the Tribunal would suggest that the department had not disputed the assessee's sales. There was no discrepancy between the purchases shown by the assessee and the sales declared. That being the position, the Tribunal was correct in coming to the conclusion that the purchases cannot be rejected without disturbing the sales in case of a trader. The Tribunal, therefore, correctly restricted the additions limited to the extent of bringing the G.P. rate on purchases at the same rate of other genuine purchases. The decision of the Gujarat High Court in the case of N.K. Industries Ltd. (supra) cannot be applied without reference to the facts. In fact in paragraph 8 of the same Judgment the Court held and observed as under –*

*" So far as the question regarding addition of Rs. 3,70,78,125/- as gross profit on sales of Rs. 37.08 Crores made by the Assessing Officer despite the fact that the said sales had admittedly been recorded in the regular books during Financial Year 1997-98 is concerned, we are of the view that the assessee cannot be punished since sale price is accepted by the revenue. Therefore, even if 6% gross profit is taken into account, the corresponding cost price is required to be deducted and tax cannot be levied on the same price. We have to*

*reduce the selling price accordingly as a result of which profit comes to 5.66%. Therefore, considering 5.66% of Rs. 3,70,78,125/- which comes to Rs. 20,98,621.88 we think it fit to direct the revenue to add Rs. 20,98,621.88 as gross profit and make necessary deductions accordingly. Accordingly, the said question is answered partially in favour of the assessee and partially in favour of the revenue."*

*9. In these circumstances, no question of law, therefore, arises. All Income Tax Appeals are dismissed, accordingly. No order as to costs."*

9. In light of aforementioned details of the Hon'ble Jurisdictional High Court, we confirm the addition made by the AO being 25% of the bogus purchases and delete the enhancement made by the CIT(A).

10. Appeal of the assessee is partly allowed.

**Order pronounced in the open Court on 24<sup>th</sup> September, 2024 at Mumbai.**

*Sd/-*  
**(SUNIL KUMAR SINGH)**  
**JUDICIAL MEMBER**

*Sd/-*  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 24/09/2024  
Karuna, Sr. Ps.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीयप्रतिनिधि , आयकरअपीलीयअधिकरण, मुंबई/DR,ITAT, Mumbai,
6. गार्ड फाई/Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai