

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH MUMBAI

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.1344/MUM/2024
Assessment Year: 2011-12**

Deputy Commissioner of Income Tax- Central – 1.1, Mumbai	Vs.	Rajendra S. Karnavat, DW-3290, G-Block, Bharat Diamond Bourse, BKC, Bandra, Mumbai – 400 051 (PAN: AAGPK9912P)
(Appellant)		(Respondent)

Present for:

Assessee : Shri Sunil Hirawat, CA
Revenue : Smt. Mahita Nair, Sr. DR

Date of Hearing : 02.07.2024
Date of Pronouncement : 27.09.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is against the order of Ld. CIT(A)-47, Mumbai, vide order no. ITBA/APL/M/250/2023-24/1060113134(1), dated 25.01.2024, against the assessment order passed by the Assistant Commissioner of Income Tax, Circle – 19(3), Mumbai, u/s. 147 r.w.s. 143(3) of the Income-tax Act, 1961 (hereinafter

referred to as the "Act"), dated 05.12.2018 for Assessment Year 2011-12.

2. Grounds taken by the Revenue are reproduced as under:

"Whether on the facts and circumstances of the case and in law, the Ld.CIT(A) is justified in restricting the addition made by the A.O. without appreciating the fact that assessee is one of the beneficiary of accommodation entry provided by Bhanwarlal Jain Group concerns exclusively engaged in the business of issuing nere genuine purchase bills?"

2. Whether on the facts and in law, the Ld.CIT(A) has failed to uphold the decision of Hon'ble Apex Court in the case of N.K. Proteins Ltd. Vs. DCIT in SLP(Civil) No.769/2017 dated 16.01.2017 where 100% of addition was confirmed by the Apex Court

3. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT (A) is justified in restricting the addition to 12.5% without considering the evidential value of the statement on oath which clearly indicates payments made under the gurb of bogus purchases & assessee is beneficiary of accommodation entry ?" "The appellant craves leave to add, alter, amend, delete and/or vary any of the above grounds of appeal/relief claimed at any time before the decision of the appeal"

3. Brief facts of the case are that assessee is a proprietor of M/s. Rajendra Enterprises, engaged in the business of processors, exporters & dealers of diamonds and other precious and semi precious stones. Assessee filed his return of income on 23.09.2011 reporting total income at Rs.67,76,392/-. Case of the assessee was re-opened u/s.147 owing to search and survey action carried out by the Department in the case of Mr. Bhanwarlal Jain Group. In the course of assessment, assessee was asked to substantiate the purchase transactions carried out by him with M/s. Millenium Stars and M/s. Mohit Enterprises which were alleged to be belonging Mr. Bhanwarlal Jain Group. Ld. Assessing Officer asked the assessee to furnish supporting documents for purchases made from the parties along with supporting documents for corresponding sales affected by the assessee. Assessee furnished certain details in compliance to the notices issued by the ld. Assessing

Officer. Ld. Assessing Officer concluded that it is only the profit embedded in the alleged bogus purchase transaction which needs to be taxed. He thus, arrived at a percentage of 25% of the total non-genuine purchases to add it to the total income of the assessee as profit earned from such purchases which amounted to Rs. 1,96,00,944/-. Assessment was thus completed u/s. 143(3) r.w.s. 147 of the Act.

4. Aggrieved, assessee went in appeal before the ld. CIT(A), who after considering the details and documents on record and further explanations furnished by assessee, took 4% as the gross profit rate on the alleged bogus purchases which was added in the hands of the assessee by taking into account the observations of Hon'ble Jurisdictional High Court of Bombay in the case of Mohmmad Haji Adam & Co. in ITA No.1004 of 2016. Thus, the addition was sustained to the extent of 4% of alleged bogus purchase transaction, vide a corrigendum dated 05.02.2024 to the appellate order dated 25.01.2024, against which Revenue is in appeal before the Tribunal.

5. We have heard both the parties and taken note of the facts narrated above. The issue before us is squarely covered by the decision of Hon'ble Jurisdictional High Court of Bombay in the case of Mohmmad Haji Adam & Co. (supra). Hon'ble High Court had held to restrict the addition to the extent of bringing the gross profit rate on purchases at the same rate of other genuine purchases. In the present case, assessee has claimed that he had earned gross profit rate of 4%. Accordingly, respectfully following the decision of Hon'ble Jurisdictional High Court of Bombay in the case of Mohammed Haji Adam & Co.(supra), we do not find any reason to interfere in the factual findings of the ld. CIT(A). Thus, grounds taken by the Revenue are dismissed.

7. In the result, appeal of the Revenue is dismissed.

Order pronounced on day of 27 September, 2024 under Rule 34 of
The Income Tax (Appellate Tribunal) Rules, 1963

Sd/-
(Satbeer Singh Godara)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 27 September, 2024

MP, Sr.P.S.

Copy to :

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- 2 The Respondent
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BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai