

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"J" BENCH, MUMBAI

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

I.T.A. No. 3264/Mum/2024
Assessment Year: 2010-11

| | | |
|---|----|-----------------------------------|
| Synergy Creations, Mumbai 17, Sona Shopping Center Hill Road Opposite Globus Bandra Maharashtra - 400050 [PAN: AAOFS7110D] | Vs | Income Tax Officer, Mumbai |
| अपीलार्थी/ (Appellant) | | प्रत्यर्थी/ (Respondent) |

| | |
|---------------|----------------------------|
| Assessee by : | Shri Siddhant Agarwal, A/R |
| Revenue by : | Shri Asif Karmali, Sr. D/R |

सुनवाई की तारीख/**Date of Hearing** : 05/11/2024
घोषणा की तारीख/**Date of Pronouncement** : 08/11/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the Id. CIT(A)/Addl./JCIT-(4), Kolkata, dated 29/01/2024 [hereinafter 'Id. CIT(A)'] pertaining to AY 2010-11.

2. Delay of 83 days is condoned.

3. The sum and substance of the grievance of the assessee is that the Id. CIT(A) erred in enhancing the assessment to 100% of the alleged bogus purchases on which the AO has made addition of 25%.

3.1. Briefly stated the facts of the case are that the assessee electronically filed its return of income on 15/10/2010 declaring total income at Rs. 5,99,826/-. The return was processed u/s 143(1) of the Act and the returned income was accepted.

4. Subsequently, on the basis of information that the assessee is indulged in showing bogus purchase by taking accommodation/fictitious

bills from certain entities/parties, the assessment was reopened and statutory notices were accordingly issued and served upon the assessee.

4.1. During the course of scrutiny assessment proceedings, the assessee was asked to explain and furnish details of the genuineness of transactions with following parties:-

| Sr. No. | Name of the Party who has issued bogus bills to the assessee | Amount of such bogus bill in Rs |
|---------|--|---------------------------------|
| 1 | Asthavinayak Sales Agency | 447824 |
| 2 | Hiten Enterprises | 308568 |
| 3 | Adinath Trading Co | 6,13,907 |
| 4 | Meghani Impex Pvt Ltd | 2,39135 |
| | Total | 16,09,434 |

4.2. The AO further issued notice u/s 133(6) of the Act to all the above parties but received no reply from any.

4.2.1. When the assessee was confronted with this, it replied that these people are not traceable at present and hence it is unable to produce them for verification. The AO formed a belief that the purchases from the aforementioned parties are bogus and drawing support from various judicial decisions, the AO made addition of Rs. 4,02,359/- being 25% of the alleged bogus purchases.

4.3. Assessee carried the matter before the Id. CIT(A) and reiterated that the purchases are genuine.

5. After considering the facts and the submissions, the Id. CIT(A) was of the opinion that the AO erred in making addition @25% of the bogus purchases whereas, the addition should have been made @100% of the alleged bogus purchases and enhanced the assessment by making addition of Rs. 16,09,434/-.

6. Before us, the Id. Counsel for the assessee reiterated that the purchases are genuine and only the profit element imbibed in the alleged bogus purchases should be added. Referring to the decision of the Co-ordinate Bench in the case of *M/s. Kuldeep Glass and Aluminium vs. ITO in ITA No. 7139/Mum/2018*, the Id. Counsel pointed out that the Co-ordinate Bench after considering the decisions relied upon by the lower authorities has confirmed the addition to the extent of 12.5% of the alleged bogus purchases.

The Id. D/R, on the other hand, strongly supported the findings of the Id. CIT(A).

7. After giving a thoughtful consideration to the orders of the authorities below, we are of the considered view that the AO has neither rejected the books of accounts nor has specified as to under which Section of the Act, he is making the addition. Even the Id. First Appellate Authority has not rejected the books of accounts. Therefore, in our considered opinion, the bills may be bogus but the purchases are genuine and the sales have been accepted on such purchases. Therefore, the addition @12.5% of the alleged bogus purchases, should meet the ends of justice. We accordingly direct the AO to restrict the addition to 12.5% of the alleged bogus purchases.

8. In the result, appeal of the assessee is partly allowed.

Order pronounced in the Court on 8th November, 2024 at Mumbai.

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 8/11/2024

**S.S.P.*

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. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai