

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "SMC" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
AND  
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No.1273/Mum/2024  
Assessment Year 2012-13

Income Tax Officer-19(2)(4), Piramal Chambers, Parel, Mumbai.	vs.	Prithviraj Ghewarchand Jain, 3, Bordi Bungalow, 89 CP Tank, Mumbai PAN : AAJPJ4227F
(Appellant)		(Respondent)

Assessee by : Shri Aakash Kumar  
Revenue by : Ms. Smitha V. Nair, Addl.CIT

Date of Hearing : 07/11/2024  
Date of Pronouncement : 07/11/2024

**PER B.R. BASKARAN, A.M :**

The Revenue has filed this appeal challenging the order dt.27-01-2024 passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)'] and it relates to AY. 2012-13. The only issue urged by the Revenue in this appeal relates to relief granted by the assessee in respect of bogus purchases.

2. The assessee is engaged in the business of trading of steel goods. The AO received information from the Sales Tax Department that the assessee has made purchases to the tune of Rs.3.93 crores from certain parties, who were identified as accommodation bill providers without actually supplying materials. Accordingly, the AO took the view that the purchases amounting to Rs.3.93 crores made from those providers are non-genuine purchases. Accordingly, by placing reliance on the decision rendered by the Hon'ble Gujarat High Court in the case of Simit P. Sheth [356 ITR 451], the AO made addition of 12.5% on the value of non-genuine purchases.

3. In the appellate proceedings, the Ld.CIT(A) noticed that the AO had made identical additions in AYs. 2009-10 to 2011-12 and when the matter had reached the Tribunal, the ITAT, vide its order passed in ITA Nos. 911/Mum/2016, 1805/Mum/2017 and 3057/Mum/2017, dt. 03-11-2017 had restricted the addition to 2% of the value of alleged non-genuine purchases. Accordingly, following the decision rendered by the Tribunal in assessee's own case for the AYs. 2009-10 to 2011-12, the Ld.CIT(A) directed the AO to restrict the addition to 2% of the value of the alleged non-genuine purchases. The Revenue is aggrieved.

4. We heard the parties and perused the record. We notice that an identical addition was made by the AO for the AYs. 2009-10 to 2011-12 @12.5% of the value of alleged non-genuine purchases. However, the Tribunal, vide its order referred supra, has restricted the addition to 2% of the value of the non-genuine purchases. The Ld.CIT(A) has followed the decision so rendered by the Tribunal in assessee's own case.

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4.1. Under these set of facts, we do not find any infirmity in the order so passed by the Ld.CIT(A). Accordingly, we uphold the same.

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

Order pronounced in the open court on 07-11-2024

Sd/-  
[RAJ KUMAR CHAUHAN]  
JUDICIAL MEMBER

Sd/-  
[B.R. BASKARAN]  
ACCOUNTANT MEMBER

Mumbai,  
Dated: 07-11-2024

*TNMM*

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "SMC" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar  
I.T.A.T, Mumbai