

**IN THE INCOME-TAX APPELLATE TRIBUNAL “SMC” BENCH,
MUMBAI**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 919/AHD/2023
(A.Y. 2011-12)**

Hitesh Maheshwari 65, Office 103, Kushal Bhawan, 5 th Kumbharwada, Maharashtra -400004	v/s. बनाम	ITO 19(1)(5) 215, 2 nd Floor, Matru Mandir, Tadeo Road, Maharashtra 400007
स्थायी लेखा सं./जीआइआर सं./PAN/GIR NO: AKSPM8992K		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Jay Bhansali
Respondent by :	Shri Dharamveer D. Yadav

Date of Hearing	09.10.2024
Date of Pronouncement	28.10.2024

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals), Mumbai-30/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 19.09.2023 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2011-12.

2. The assessee has raised following grounds of appeal:

1. *On the facts and circumstances of the case and in law, the Id NFAC erred in not granting an opportunity of hearing to the appellant. The appellant craves that the matter be set aside to the Id NFAC for hearing afresh.*

2 *The Id NFAC erred in upholding the reopening of the assessment u/s 148 of the Act.*

3. *The Id NFAC erred in upholding the disallowance of bogus purchases of Rs 18,36,377/- despite the fact that:*

- *The AO has not issued any notice calling for details of purchases.*
- *The name of the party from whom bogus purchases were allegedly made was not provided to the assessee.*
- *The AO has merely relied upon information from VAT Department without doing any independent investigation.*
- *The AO has falsely mention in the Assessment Order that he asked for details of the alleged entry providers, delivery challans, etc.*
- *The AO did not grant an opportunity to cross examine the alleged entry providers.*

3. The assessee has also raised following additional grounds:

“1. On the facts and circumstances of the case and in law, the Income-tax Officer, ITO Ward 1, Palanpur erred issuing notice dated 27.03.2018 under section 148 of the Income-tax Act, 1961 to reopen the case of the assessee although he had no jurisdiction to do so. Consequently, the reassessment proceedings and the reassessment order dated 28.12.2018 under section 143(3) r.w.s 147 of the Act is bad in law and liable to be quashed;”

4. The brief facts of the case are that the assessee filed return declaring income of Rs. 3,43,280/- on 30.09.2011 for the AY 2011-12. After receipt information from VAT department that the assessee was one of the beneficiaries in non-genuine bills transaction of Rs. 18,36,377/-, the case was reopened. Assessment was completed u/s 143(3) r.w.s 147 at an income of Rs. 18,36,377/- vide order dated 28.12.2018 after adding Rs. 18,36,377 on account of non-genuine purchases.



5. Aggrieved with the order, the assessee filed an appeal before Ld. CIT(A). However, the assessee's appeal was dismissed ex parte, as there was no compliance by the assessee during the appellate proceedings.
6. Before us, the first ground taken by the assessee pertains to not granting opportunity of hearing to the assessee. The assessee has requested that the matter is set aside to the Ld. CIT(A) for a fresh hearing.
7. We have heard the rival submissions and perused the material available on record. It is clear that no proper opportunity was given to the assessee by the Ld. CIT(A). We accordingly deem it proper to restore the matter to the Ld. CIT(A) for afresh adjudication after giving proper opportunity of being heard to the assessee.
8. In the result, the appeal of the assessee is allowed for statistical purposes.
Order pronounced in the open court on 28.10.2024.

Sd/-

BEENA PILLAI

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 28.10.2024

अनिकेत सिंह राजपूत/ स्टेनो

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

1. अपीलार्थी / The Appellant



2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

