

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

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.4916/M/2024
Assessment Year: 2007-08
&
ITA No.4915/M/2024
Assessment Year: 2013-14**

Shri Himanshu Dilip Jain, 173 Kika Street, Gulal Wadi, Mumbai Maharashtra-400 004 PAN: AGHPJ1641F (Appellant)	Vs.	Income Tax Officer- 19(1)(5) Aaykar Bhawan, Mumbai Maharashtra 400020 (Respondent)
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Present for:

Assessee by : Shri Mahaveer Jain, Ld. A.R.
Revenue by : Shri Srinivas P, Ld. Sr. A.R

Date of Hearing : 25.11.2024
Date of Pronouncement : 25.11.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

These appeals have been preferred by the Assessee against the orders even dated 24.07.2024, impugned herein, passed by the Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2007-08 & 2013-14.

2. Both the appeals are based on the almost identical facts except variation in amounts and having involved identical issues and therefore for the sake of brevity the same were heard together and are being disposed of by this composite order by taking into consideration the facts

and circumstances and issues involved in ITA No.4916/M/2024 as a lead case and result of the same would be mutatis mutandis applicable to both the appeals under consideration.

3. In the instant case, the Assessee is not pressing his appeals on merits vis-à-vis sustaining the addition on account of bogus purchases on the basis of the information received from GST Department. The Ld. Counsel Shri Mahaveer Jain (Ld. Advocate) has submitted that the Assessee is challenging the quantum of disallowance sustained by the Ld. Commissioner @ 12.5% of the bogus purchases as made by the Assessing Officer (AO) vide assessment order dated 28.03.2016. The Ld. Counsel drew attention of this Bench to order dated 22.05.2024 in ITA No.121/M/2024 and submitted that the Co-ordinate Bench of the Tribunal in the identical facts and circumstances as involved in this case, has also considered the identical addition/disallowance made @ 12.5% of the alleged bogus purchases as GP and restricted the addition/disallowance/GP rate to 6% instead of 12.5%, over and above the GP rate already disclosed by the Assessee. The Ld. D.R. did not refute the claim of the Assessee. Considering the peculiar facts and circumstances of the case and decision of the Co-ordinate bench of the Tribunal in the case referred to above, this Court is inclined to restrict the addition from 12.5% to 6%, over and above to the GP already disclosed, as reasonable, sufficient and justified. Accordingly, the GP rate is restricted to 6% over and above to the GP already disclosed. Resultantly the appeal under consideration i.e. ITA No.4916/M/2024 is accordingly party allowed.

4. In the result, both the appeals filed by the Assessee are partly allowed in the terms determined in ITA No.4916/M/2024.

Order pronounced in the open court on 25.11.2024.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.