

**IN THE INCOME-TAX APPELLATE TRIBUNAL "F" BENCH,
MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA 6113/MUM/2024
(A.Y. 2011-12)**

Mafatlal Bhagraj Jain 100 Gr. Floor, 2 nd Pathan St., 5 th Kumharwada, Maruti Mandir Marg, Mumbai 400004, Maharashtra	v/s. बनाम	Income Tax Officer Ward No. 19(2)(3), Piramal Chamber, Lower Parel, Mumbai 400013, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AADPJ0430G		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri D.C. Jain
Respondent by :	Ms. Nidhi Agarwal (Sr. DR)

Date of Hearing	07.01.2025
Date of Pronouncement	13.01.2025

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 12.11.2024 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] pertaining to assessment order passed u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 18.03.2016 for the Assessment Year [A.Y.] 2011-12.



2. In various grounds of appeal on record, the assessee has raised several issues both on legal and factual matters relating to the reassessment order. Notice under section 148 of the Act is claimed to be issued without taking approval under section 151. Besides, reopening is merely based on information received from the Sales Tax Department of Maharashtra about some of the dealers indulging in the practice of providing accommodation entries in the form of bogus sales/purchase bills without supplying any goods without independent application of mind by the A.O. The Assessing Officer erred in taking the non-genuine purchases at ₹1,42,26,852/- on the basis of Sales Tax Department information, whereas the purchases from the so-called parties is only at Rs 33,19,203/- as per audited books of accounts. The difference is due to computer-generated figures by Sales Tax Dept. It is further contented that the Id. Commissioner of Income Tax (Appeals) has dismissed the appeal without providing reasonable opportunity. The appellant received only one notice u/s 250 dated 24.10.2024, and appeal was dismissed on 12.11.2024.

3. Facts culled from the assessment order reveals that Return of Income for the year under consideration was originally filed declaring total income at Rs. 3,62,650/-. Thereafter, action u/s 147/148 was taken based on the information received from the DGIT (Inv.) Wing, Mumbai,



from the Sales Tax Department of Maharashtra about some of the dealers under MVAT 2002 indulging in the practice of providing accommodation entries in the form of issuing bogus sales/purchase bills without supplying any goods but providing only accommodation entries. As per the list of beneficiary parties, the assessee was also one of them. During the course of assessment proceedings, the assessee was asked to furnish supporting evidences in respect of the purchases made from the above entities. In response to the same, the AR furnished part the details only. Moreover, notice u/s.133(6) of the Act was issued and sent by registered post to the said parties at the addresses provided by the assessee could not be served and were returned back 2011-11 unserved by the postal authorities with the remarks 'not known' or 'no such address' 'left' etc. On being confronted, the assessee neither produced these parties nor furnish their new addresses but simply furnished copies of ledger accounts in the books of the assessee etc. The AO observed that all the above said hawala parties had confessed in the statement recorded on oath before Sales tax Authorities that they had not done any genuine business as well as there was no actual delivery of goods to the purchase parties, the onus was on the assessee to prove the genuineness of the transactions. It was concluded by him that the assessee did not make genuine purchases from these dealers. By recording the non-genuine purchases at a higher level,



the assessee managed to siphon off the profit to the extent of difference between the actual purchases and non genuine purchases. In the instant case, the assessee has failed to bring on record the relevant and corroborative evidences or material to support his contention.

4. In the subsequent appeal, the ld.CIT(A) observed the assessee did not furnish any adduced evidence or explanation to prove that the purchases made were genuine. He concurred with the AO that the assessee did not make genuine purchases from these hawala dealers. In this case, the assessee had obtained accommodation entries or non-genuine purchases to the tune of Rs.1,42,26,852/- but details of the purchases amounting to Rs.33,19,203/- were recorded in his books of account. The total addition of Rs. 1,13,22,549/- was confirmed.

5. We have carefully gone into the facts of the case and all relevant materials on record. Before us, the ld.AR has vehemently argued that the ld.CIT(A) did not grant adequate opportunity of hearing to the assessee and passed the order in ex parte manner. The ld.DR on the other hand relied upon the orders of authorities below. It is quite evident from the contents of the assessment order that the assessee failed to make proper compliance and various requisition for details were not fully complied with. It is also a fact that the ld.CIT(A) has not adjudicated on merits of



the case and has mainly reiterated the findings and observations of the AO. He has also not given inadequate opportunity of hearing to the assessee. It is stated by the assessee that he received only one notice u/s 250 dated 24.10.2024, and appeal was dismissed on 12.11.2024. His approach does not appear to be in consonance with the principles of natural justice. There is no independent application of mind on the issue involved on his part. By passing ex-parte order, he denied the assessee to canvass his case properly. His action is also not in accordance with the provisions of Section 250(6) of the 1961 Act, wherein CIT(A) is obligated to state points for determination in appeal before him, the decision thereon and the reasons for determination.

5.1 During the hearing, the assessee expressed satisfaction with a the proposal of the Bench for restoration of the matter to the CIT(A) for fresh consideration. The Revenue did not oppose this plea either. Thus, in the in the interest of justice, we deemed it appropriate to allow the appeal for statistical purposes, emphasizing the need for a thorough and compliant adjudication process. The Id. CIT(A) shall give proper and adequate opportunity of being heard to the assessee in accordance with principles of



natural justice in the set aside remand proceedings for *de novo* adjudication of the appeal of the assessee filed before him.

6. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 13/01/2025.

Sd/-

SANDEEP GOSAIN

(न्यायिकसदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकारसदस्य / ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 13.01.2025

Lubhna Shaikh / Steno

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.

