

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

BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

**ITA No. 6428/Mum/2024
(Assessment Year: 2010-11)**

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| Vinod Omprakash Kainya Flat No. 41/42, Minal Apartment, Juhu Tara Road, Santacruz West, Mumbai - 400054. | Vs. | Assistant Commissioner of Income Tax Circle 25(1), Mumbai |
| PAN/GIR No. AGLPK1448D | | |
| (Applicant) | | (Respondent) |

| | |
|-------------|------------------------------|
| Assessee by | Shri Sachin Sarawagi |
| Revenue by | Ms. Madhura M. Nayak, SR. DR |

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| Date of Hearing | 06.05.2025 |
| Date of Pronouncement | 28.05.2025 |

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order dt. 10.10.2024 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi / CIT(A), for the A.Y 2010-11.

2. Ground No.1, this ground raised by the assessee relates to challenging the order of Ld. CIT(A) in upholding the addition made by AO of Rs. 74,61,350 i.e 25% of the

total purchases on account of fictitious invoices booked. As per the facts of the present case, on the basis of information received from O/o the DGIT (Inv), Mumbai that the assessee was engaged into the practice of inflating the purchases through hawala parties. Therefore the case was reopened. However, during the reassessment it was noticed that the assessee had entered into hawala transactions with the following parties.

| S.No | Name of the Hawala Trader/Bogus Biller | TIN | Transaction Amount |
|------|--|--------------|--------------------|
| 1 | VM Udyog | 27820645517V | 66,42,112 |
| 2 | Shradhha Trading Co. | 27460624763V | 64,03,338 |
| 3 | Somnath International | 27470616755V | 69,47,423 |
| 4 | SB Metal Corp | 27780306524V | 98,52,477 |
| | | Total | 2,98,45,400 |

3. The AO after carrying out necessary investigation / verification passed order of assessment u/s 143(3) r.w.s 147 of the Act thereby making additions being 25% of the non-genuine purchases.

4. Ld. AR stressed on the point that assessee had already placed on record all the relevant and necessary documents and had discharged its burden and also submitted table indicating gross profit / net profit percentage of last two years which is reproduced below:

| | 2009-10 | 2010-11 |
|--------------|--------------|--------------|
| Turnover | 15,11,05,803 | 20,45,69,330 |
| Gross Profit | 69,35,931 | 1,21,19,645 |
| Net Profit | 13,88,594 | 26,03,121 |
| Gross Profit | 4.59% | 5.92% |
| Net Profit | .92% | 1.27 |

5. Ld. AR requested to make addition on the basis of net profit percentage instead of GP percentage for the year under consideration.

6. Whereas from the records, I noticed that the TIN status of all the parties from whom the alleged purchases were made by the assessee were found to be cancelled. In this regard the statement of the hawala operators were recorded on oath before the Sales Tax authorities, wherein it was confirmed by the said parties that they were engaged in the practice of giving accommodation entries on the basis of offered commission and no real transaction had taken place. Apart, the assessee could not produce the parties and the parties were not even found on their respective addresses and therefore the AO had rightly exercised its power by rejecting the books of account by invoking the provisions u/s 145(3) of the Act. There is no infirmity in the order of AO and Ld. CIT(A) in treating the purchases as bogus.

7. Even no new material or documents have been placed on record to rebut or controvert the findings recorded by the AO and Ld. CIT(A). Therefore I see no reasons to interfere in to or to deviate from the lawful findings so recorded by the Ld. CIT(A). Therefore, the grounds of appeal raised by the assessee stands dismissed

8. Ground No.2, raised by assessee relates to challenging the order of Ld. CIT(A) in not giving effect of purchase return to M/s. Somnath International. In this regard, after having heard both the parties, we found that assessee had not furnished any documentary evidences of refund of payment done on account of these purchases, moreover the figures arrived at by the AO on account of purchases from M/s Somnath International is a net figure and returns would have already been accounted for.

9. Even before the Bench no application for leading additional evidences has been filed, moreover no new facts or circumstances have been explained before the Bench to controvert or rebut the findings of Ld. CIT(A). Therefore I feel no reasons to interfere into the order passed by the revenue authorities and thus while dismissing this ground I uphold the decision of Ld. CIT(A). The other grounds raised by the assessee are general and consequential in nature.

10. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in the open court on 28.05.2025

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 28/05/2025

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

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उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai