

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "SMC, MUMBAI

Before Shri R P Tolani, Judicial Member

ITA No.4615/Mum/2016
Assessment Year : 2010-11

Jainam Exports Ltd., 103/33, Malhotra Chambers, Police Lane, Dr D N Road, Fort, Mumbai 400 001 PAN AAACJ8119Q	Vs.	ITO 2(2)(1), Mumbai
(Appellant)		Respondent)

Appellants By : None
Respondent By : Ms. Beena Santosh

Date of Hearing :31.01.2017	Date of Pronouncement : 31.01.2017
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ORDER

Per R P Tolani, Judicial Member

This is assessee's appeal. Following ground is raised:

'On the facts and in the circumstances of the case –

The Learned Assessing Officer erred in disallowing 100% of purchase expenses amounting to Rs.3,43,114/-. Subsequently, CIT(appeals)-5 allowed the appeal by deleting the demand of 100% of purchase expenses to 12.5% of expenses amounting to Rs.42890.'

2. None appeared for the assessee despite adjournment of today being granted as requested. Consequently, the appeal is decided ex parte qua the assessee after hearing the learned DR and perusing the material available on record.
3. The brief facts of the case are that the AO found that the assessee has made bogus purchases and disallowed 100% amount thereof. In first appeal, the learned

CIT(A) reduced it to 12.5% considering the judgment of Hon'ble Gujarat High Court in the case of CIT vs. Smith P D Sheth 356 ITR 146, holding it to be benefit element in the purchases and reduced the addition to Rs. 42,890/- Aggrieved, the assessee is in appeal.

4. The learned DR contends that because of the smallness of the tax demand, revenue could not file the appeal. Further, 100% disallowance has been hugely reduced to 12.5% that too on the basis of the judgement of Hon'ble Gujarat High Court. The assessee cannot have any legitimate grievance thereon that is the reason why the assessee has remained absent. Therefore, he contended that the order of the learned CIT(A) may be confirmed.

5. I have heard the learned DR and have gone through the material available on record. I find merit in the contention of the learned DR. The learned CIT(A) has drastically reduced the disallowed from 100% to 12.5% by giving cogent reasons and by relying on the judgment of Hon'ble Gujarat High Court in the case of CIT vs. Smith P D Sheth (supra). I see no infirmity in the order of the learned CIT(A).

6. In the result, the assessee's appeal is dismissed..

Order pronounced in the open court on this day of 31st January, 2017.

**Sd/-
(R P Tolani)
JUDICIAL MEMBER**

Mumbai, Dated :31st January, 2017.
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Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai.
4. The CIT
5. The DR, 'SMC' Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai