

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

**BEFORE SRI MAHAVIR SINGH, JM AND SRI RAJESH KUMAR, AM**

**ITA No.5198/Mum/201**

(A.Y:2010-11)

M/s. Rajendra Developers, 302, Galaxy Arcade, 10, M. G. Road, Vile Parle (E), Mumbai 400 057 <b>PAN: AAEFR 3686B</b>	Vs.	The Asst. Commissioner of Income Tax-21(1), Pratyakash Kar Bhawan, C-10 Buuilding, 6 <sup>th</sup> floor, Bandra Kurla Complex, Bandra (E), Mumbai 400 051
<b>Appellant</b>	..	<b>Respondent</b>

<b>Appellant by</b>	..	<b>Shri Vijay Mehta, AR</b>
<b>Respondent by</b>	..	<b>Shri B. S. Bist, Sr. DR</b>

<b>Date of hearing</b>	..	<b>22-09-2016</b>
<b>Date of pronouncement</b>	..	<b>22-09-2016</b>

**ORDER**

**PER MAHAVIR SINGH, JM:**

This appeal of the assessee is arising out of the order of the CIT (Appeals)-21, Mumbai in appeal No.CIT (A)-21/ACIT-21(1)/IT-77/2013-14 dated 02-07-2014. Assessment was framed by the ACIT, Central Circle-21(1), Mumbai for assessment year 2010-11 u/s 143(3) read with section 153A of the Income Tax Act, 1961 (hereinafter “the Act”) vide his order dated 26-03-2013.

2. The only issue involved in this appeal of the assessee against order of the CIT (A) confirming the addition made by the AO by disallowing bogus purchases of Rs.5,16,880/-.

3. We have heard the rival contentions and also gone through the facts and circumstances of the case. Briefly stated facts of the case are that the assessee is in the business of real estate development and following project completion method to offer its income in respect of projects undertaken by it. During the course of assessment proceedings the Assessing Officer issued notices u/s 133(6) of the Act to various parties to verify the purchases claimed by the assessee. In reply to the notices, one of the parties M/s. SAM Enterprises declined any supply of material to the assessee and stated that he has given only bill and the same was declared as hawala dealer by the Sales Tax Department. The Assessing Officer disallowed the

purchases made from M/s. SAM Enterprises as bogus purchases amounting to Rs.5,16,880/-. Aggrieved, the assessee preferred appeal before the CIT (A) who also confirmed the action of the Assessing Officer. Now, the assessee being aggrieved has come in second appeal before the Tribunal.

4. We find from the case records and arguments of both the sides that in its statement of facts the assessee itself has requested to add a sum of Rs.1,56,413/- vide item No.13 which reads as under:-

*“13. Appellant had requested to add sum of Rs.1,56,413/- based on method of accounting consistently followed & accepted by the department in earlier year on account of such alleged bogus purchases. Appellant had also submitted revised working of income to be offered after considering the alleged bogus purchases of Rs.5,16,880/-.”*

During the course of hearing it was noticed that these are bogus purchases and the learned Counsel for the assessee admitted the fact. But, he requested for a reasonable estimate of disallowance because the assessee's sale is not rejected and hence, the sale is accepted by revenue as it is. To this proposition, the learned Sr. DR also agreed. We find that the assessee itself has requested for addition of Rs.1,56,413/- and we accede to the same. We direct the Assessing Officer to restrict the addition at Rs.1,56,413/- as against the addition of bogus purchases made at Rs.5,16,880/-. We direct the Assessing Officer accordingly. The assessee's appeal thus stands partly allowed.

**5. In the result, the appeal of the assessee is partly allowed.**

Order pronounced in the open court on 22-09-2016.

Sd/-  
(RAJESH KUMAR)  
ACCOUNTANT MEMBER

Sd/-  
(MAHAVIR SINGH)  
JUDICIAL MEMBER

Mumbai, Dated: 22-09-2016  
*LakshmiKanta Deka/Sr.PS*

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. The CIT (A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

//True Copy//

Assistant Registrar  
**ITAT, MUMBAI**

Sr.No.	Particulars	Date	Initials	Member Concerned
1	Dictation given on	22/09/16	LK Deka	JM
2	Draft placed before author	22/09/16		
3	Draft proposed/placed before The second Member			
4	Draft discussed/approved by Second member			
5	Approved Draft comes to the Sr.PS			
6	Kept for pronouncement on			
7	File sent to the Bench Clerk			
8	Date on which file goes to the Head Clerk			
9	Date of dispatch of Order			