

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI
BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER
ITA No.3090/M/2016 (AY 2010-2011)

M/s. Micron Platers, 1/11, Building No.2, 1 st Floor, Marol Udyog Premises Coop. Soc., Marol Maroshi Road, Andheri (E), Mumbai – 400 059.	बनाम/ Vs.	ITO-20(2)(2), Mumbai.
स्थायी लेखा सं./PAN : AAQFM3374F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by :	Shri A.K. Sinha
प्रत्यर्थी की ओर से/ Respondent by :	Ms. Beena Santosh, DR

सुनवाई की तारीख /Date of Hearing : 20.03.2017
घोषणा की तारीख /Date of Pronouncement : 12.04.2017

आदेश / O R D E R

PER D. KARUNAKARA RAO, AM:

This appeal filed by the assessee on 2.5.2016 is against the order of the CIT (A)-36, Mumbai dated 28.03.2016 for the assessment year 2010-2011.

2. The only issue raised in this appeal relates to the CIT (A)'s decision in restricting the addition to 12.5% of the bogus purchases amounting to Rs. 18,31,500/-. Briefly stated relevant facts of the case are that the assessee claimed the said purchases from M/s. Dev Enterprises, whose name has appeared in the blocklist of the official website maintained by the Sales Tax Department. In the assessment, AO disallowed the said amount u/s 69C of the Act treating the same as bogus purchases. Matter travelled to the first appellate authority.

3. During the proceedings before the first appellate authority, CIT (A) restricted the said addition to 12.5% of the alleged bogus purchases amounting to Rs. 18,31,500/-. While coming to the said decision, CIT (A) relied on the judgment of the Hon'ble Gujarat High Court in the case of **CIT vs. Simit P. Sheth** (355 ITR 290)

(Guj.) and others. Not satisfied with the said decision of the CIT (A), assessee is in appeal before the Tribunal.

4. During the proceedings before the Tribunal, Ld Counsel for the assessee reiterated the submissions made before the lower authorities. Further, Ld AR relied on the complete documentation ie invoices, payment receipts, books of account etc.

5. After hearing the Ld DR and on perusal of the orders of the Revenue Authorities as well as the relevant material placed before the Tribunal, I find, the CIT (A) has taken a fair view and the same is in tune with the settled legal position of the issue by virtue of the judgment of the Hon'ble Gujarat High Court in the case of **CIT vs. Simit P. Sheth**, ITA No. 553 of 2012, dated 16.1.2013 read with the judgment of the Hon'ble jurisdictional High Court in the case of **Nickunj Eximp Enterprises Pvt Ltd** vs. ACIT vide Writ petition No. 2860 of 2012, dated 18th June, 2014 wherein restricting the addition to the GP rate of 12.5% is approved. Considering the same I am of the view the order of the CIT (A) is fair and reasonable and it does not call for any interference. Accordingly, grounds raised by the assessee are dismissed.

6. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 12th April, 2017.

Sd/-

(D. KARUNAKARA RAO)
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक 12 .04.2017

व.नि.स./ OKK, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai

6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,
उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**