

**आयकर अपीलीय अधिकरण “एच” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“H” BENCH, MUMBAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)**

आयकर अपील सं./ I.T.A. No.7141/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2011-12)

DCIT-11(1)(2) R.No.1, GF Aaykar Bhawan, M.K.Road Mumbai – 400 020	बनाम/ Vs.	M/s Shahastraa Exports P. Ltd. 6 th Floor, Navkar Plaza Bajaj Road, Vile Parle (W) Mumbai – 400 056
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAFCS-2340-R		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Dinesh Agarwal – Ld. AR
Revenue by	:	Shri Gurbinder Singh-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	21/04/2021
घोषणा की तारीख / Date of Pronouncement	:	03/05/2021

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment year [AY in short] 2011-12 contest the order of Ld. Commissioner of Income Tax (Appeals)-18, Mumbai [in short CIT(A)] dated 26/08/2019 which has provided certain relief to the assessee on account of *alleged bogus purchases*.

2. We have carefully heard the rival submissions and perused relevant material on record. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3.1 The material facts are that the assessee being resident corporate assessee stated to be engaged in trading of chemical was assessed for the year under consideration u/s 143(3) on 21/03/2014. During assessment proceedings, it transpired that the assessee purchased import license for Rs.2.66 Lacs from an entity namely M/s Magnum Enterprises. The supplier was listed as bogus supplier by Sales Tax Department, Mumbai. Therefore, the assessee was directed to substantiate these purchases.

3.2 The assessee filed purchase bill, bank statements evidencing payment through banking channels and documents proving utilization of import license. However, Ld. AO observed that no documents were filed in respect of M/s Magnum Enterprises and the onus to substantiate the purchases remained un-discharged by the assessee. Accordingly, the said amount was disallowed and added back to assessee's income while framing the assessment.

4. Upon further appeal, the assessee filed additional evidences u/r 46A which were subjected to remand proceedings. However, the assessee failed to make any submissions or evidence during remand proceedings. The supplier M/s Magnum Enterprises was not found at the given address.

After considering remand report, Ld. CIT(A) observed that the assessee made import of Rs.13.15 Lacs using the import license and made corresponding sale of Rs.18.48 Lacs. The import was allowed by custom authorities. It was further observed that similar issue arose in appellate

order for AY 2010-11 wherein the disallowance was estimated at 10%. Finally, the disallowance as made by Ld. AO was deleted. Aggrieved, the revenue is in further appeal before us.

5. Going by the factual matrix as enumerated in the orders of lower authorities, we find that the assessee miserably failed to substantiate the purchase of import license. No evidences could be furnished during remand proceedings and the supplier was not physically found at the address provided by the assessee. At the same time, the assessee had imported the material suing the import license which was ultimately sold at a profit. Though it was observed by Ld. CIT(A) that similar issue arose in appellate order for AY 2010-11 wherein the disallowance was estimated at 10%, however, the addition in full has ultimately been deleted. Therefore, in line with appellate order for 2010-11, we estimate the additions @10% of Rs.2,66,787/- which comes to Rs.26,679/-. The Ld. AO is directed to re-compute assessee's income.

6. The appeal stands partly allowed.

Order pronounced on 3rd May, 2021.

Sd/-

(Mahavir Singh)

उपाध्यक्ष / Vice President

sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 03/05/2021
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**

