

आयकर अपीलिय अधिकरण “डी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लक्षा सदस्य कासमक्ष।
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.5260/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2009-10)

M/s Radha Gopi Impex 11 th Floor, Flat No.1102, Mamta Heights 414, Devdas Lane, Off. SVP Road Boriwali West, Mumbai – 400 103	बनाम/ Vs.	ACIT-Circle 32(3) G Block, BKC, Bandra Kurla Complex Bandra East Mumbai - 400051
PAN No. : AAHFR-0445-D		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri Rajendra Joshi– Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	25/05/2021
घोषणा की तारीख / Date of Pronouncement	:	01/06/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment year [AY in short] 2009-10 contest the order of Ld. Commissioner of Income Tax (Appeals)-44, Mumbai [in short CIT(A)] dated 10/06/2019 which has confirmed certain additions on account of *alleged bogus purchases*. In the grounds of appeal, the assessee contest the legality of reassessment proceedings as well as quantum additions on merit.

2. Though none appeared for assessee, however, material on record was sufficient for disposal of the appeal. The Ld. DR pleaded for dismissal of the appeal.

3.1 The material facts are that the assessee being resident firm stated to be engaged in manufacturing & trading of diamonds was assessed for the year under consideration u/s 143(3) r.w.s. 147 on 05/12/2016. The original return filed by assessee was processed u/s 143(1). However, pursuant to search operations on Shri Rajendra Jain Group, it transpired that the assessee made alleged bogus purchases of Rs.200.09 Lacs from an entity namely M/s Aadi Impex allegedly run by that group. Accordingly, the case was reopened as per due process of law and a notice u/s 148 was sent through speed post on 23/03/2016. However, the notice was returned back by postal authorities with remarks 'left' and therefore, the assessee's plea that the notice u/s 148 was not issued up-to 31/03/2016 was rejected. During reassessment proceedings, the assessee was show-caused to substantiate the purchases made from M/s Aadi Impex.

3.2 In support of purchases, the assessee furnished copies of purchase bills, stock statement and bank statements evidencing payment through banking channels. However, notices issued u/s 133(6) to the supplier did not elicit satisfactory response. The assessee could not produce the supplier for confirmation of transactions. The Ld. AO, after considering entire factual matrix as well as in the background of search findings, estimated an addition of 8% on these purchases.

4. The Ld. CIT(A), inter-alia, after considering various orders of the Tribunal relating to diamond manufacturer / traders, restricted the

estimation to 4%. Still aggrieved, the assessee is in further appeal before us.

5. Going by the factual matrix as enumerated in the orders of lower authorities, we find that the Sales Turnover was not in doubt and the assessee was in possession of primary purchase documents. The payment to the supplier was through banking channels. There could be no sale without actual purchase of material keeping in view the assessee's nature of business. The facts of the case made it a fit case to estimate the profit element embedded in these transactions. The Ld. CIT(A), after due consideration of assessee's submissions as well as various orders of Tribunal passed on identical factual matrix, estimated the additions @4% which, in our opinion, was quite fair to take care of the leakage of revenue. Therefore, the estimation could not be termed as unjustified, in any manner. Finding no reason to interfere in the impugned order, we dismiss this ground raised by the assessee.

The assessee has also pleaded that notice u/s 148 was not served within time. However, the same has appropriately been dealt with by lower authorities in their respective orders. No infirmity could be seen in the orders of Ld. AO in acquiring the reassessment jurisdiction. The legal grounds also stand dismissed.

6. The appeal stands dismissed.

Order pronounced on 01st June, 2021

Sd/-
(Mahavir Singh)

उपाध्यक्ष / **Vice President**

Sd/-
(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 01st June, 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.