

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO.4299 OF 2009

The Commissioner of Income Tax-13

..Appellant.

V/s.

M/s. Ashish International

..Respondent.

Mr. Suresh Kumar for appellant.

None for respondent.

CORAM : J.P. DEVADHAR AND
MRS. MRIDULA BHATKAR, JJ.

DATED : 22ND FEBRUARY, 2011

P.C. :-

1. The question raised in this appeal is, whether the Tribunal was justified in deleting the addition on account of bogus purchases allegedly made by the assessee from M/s. Thakkar Agro Industrial Chem Supplies P. Ltd. According to the revenue, the Director of M/s. Thakkar Agro Industrial Chem Supplies P. Ltd. in his statement had stated that there were no sales / purchases but the transactions were only accommodation bills not involving any transactions. The Tribunal has recorded a finding of fact that the assessee had disputed the correctness of the above statement and admittedly the assessee was not given any

opportunity to cross examine the concerned Director of M/s. Thakkar Agro Industrial Chem Supplies P. Ltd. who had made the above statement. The appellate authority had sought remand report and even at that stage the genuineness of the statement has not been established by allowing cross examination of the person whose statement was relied upon by the revenue. In these circumstances, the decision of the Tribunal being based on the fact, no substantial question of law can be said to arise from the order of the Tribunal. The appeal is dismissed with no order as to costs.

(MRS. MRIDULA BHATKAR, J.)

(J.P. DEVADHAR, J.)

Bombay