

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: "A" SMC NEW DELHI
BEFORE SHRI S.V. MEHROTRA, ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
I.T.A .No.-6176/DEL/2015
(ASSESSMENT YEAR-2006-07)**

Mohinder Kumar Khanna Prop. M/s Topcee Enterprises Gali No. 7, Anand Prabat Indl. Area, New Delhi AAIPK0795J (APPELLANT)	vs	ACIT Circle 51(1), New Delhi (RESPONDENT)
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Appellant by	Sh. Inderjeet Ahuja, Adv
Respondent by	T. Vasanthan, DR

Date of Hearing	08.02.2016
Date of Pronouncement	08.03.2016

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 21/4/2014 passed by the CIT (A)- 17, New Delhi.

2. The grounds of appeal are follows:-

- "1. *The Ld. CIT (A) was not justified to uphold the addition of Rs.48, 847/- made to the income of the appellant on account of so-called bogus purchases. The addition of Rs.48, 847/- is unfounded and uncalled for.*

2. *The Ld. CIT (A) arbitrarily retained the addition to the extent of 20% out of the so-called bogus purchases of Rs.2,44,238/- to the income of the appellant.*
3. *The Ld. CIT (A) failed to appreciate that:*
 - (a) *The appellant made purchases of aluminum scrap from M/s Vishu Trading Co. for a sum of Rs.2,44,238/-. The payments against the said purchases were made through 'A/c Payee' cheques.*
 - (b) *The confirmation letter from M/s Vishu Trading Co. was filed during the assessment proceedings, wherein they confirmed that the purchases made by the appellant from them were genuine and for which sufficient evidence had been adduced.*
 - (c) *The so-called evidence on the basis of which the addition was sustained by the Learned A.O was not sufficient to justify the addition."*
4. *The various reasons given by the Ld. CIT (A) to restrict the addition to the extent of 20% of the so-called bogus purchases, are misconceived and incorrect.*
5. *The Appellate Order is contrary to the facts and law of the case."*

3. The assessee filed return declaring an income of Rs.2,03,500/-. The assessment of the assessee for the Assessment Year 2006-07 was re-opened as per Section 147 of Income-tax Act. After properly recording the reasons for forming the belief that the income was escaped in respect of examining the list of accommodation entries. It is noticed that the following accommodation entries have been taken by the assessee namely M/s Topcee Enterprises:-

“On examining the list of accommodation entries provided by Shri Rakesh Gupta & Shri Vishesh Gupta and Shri Naveneet Jain & Shri Vaibhav Jain pertaining to A.Y 2006-07, it is noticed that the following accommodation entries have been taken by the namely M/s Topcee Enterprises:

Sl No.	Accommodation entry provided by	Name of party to whom Accommodation entry is provided	Amount of Accommodation entry
1.	Vishu Trading Co.	M/s Topcee Enterprises.	Rs. 244238/-
		Total amount of entries	Rs. 244238/-

4. The Assessing Officer held that purchases of Rs.2, 44,238/- shown from M/s Vishu Trading Company is bogus purchase obtained by the assessee. Thus, added the said amount to the income of the assessee by the Assessing Officer.

5. Being aggrieved by this, the assessee filed appeal before the CIT (A). The CIT (A) held that 20% of the cost of the purchases shown from the parties who had given accommodation entries had to be treated as inflated/bogus purchase. Therefore, directed the Assessing Officer to restrict the addition to 20% of the bogus purchases which comes to around 48,847/- and the balance amount was deleted by the CIT (A).

6. The Ld. AR submitted that all the payments were made by mode of cheque. The entries made in the M/s Vishu Trading

Company can be wrong and for that the assessee should not be held responsible. There was no material on record that the goods were not purchased by the assessee the confirmation was also filed by the assessee before the Assessing Officer.

7. The Ld. DR submitted that the CIT (A) has taken into account that the assessee has shown purchases of Rs.2,44,238/- from M/s Vishu Trading Company which was the proprietor concern of Shri Rakesh Gupta, Shri Vishesh Gupta, Shri Navneet Jain and Shri Vaibhav Jain since the persons concerned were engaged in given accommodation entries. Therefore, the purchases shown from them were not genuine. Infact these very people during the course of assessment proceedings u/s 153A of Income-tax Act have admitted that they have given accommodation entries to the parties whose list have been provided by them to the ACIT. Thus, the CIT (A) has rightly given the effect of 20% of the cost of the purchases shown from the parties and directed the Assessing Officer accordingly.

8. We have perused all the records and heard both the parties. The accommodation entries which were made were admitted by the assessee and merely the transactions cheque does not amount to the proper mode of income. Infact the CIT(A) has taken the cognizance of the short-comings of the Assessing Officer 's order and rectify in his order by directing the Assessing Officer to restrict the addition to 20% of the bogus purchases which comes to Rs.48,847/-. Thus, the CIT (A) has rightly given the findings.

9. In result, the appeal is dismissed.

The order is pronounced in the open court on 08th of March, 2016.

**Sd/-
(S. V. MEHROTRA)
ACCOUNTANT MEMBER**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 08/03/2016

R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

		Date	
1.	Draft dictated on	09.02.2016	PS
2.	Draft placed before author	10.02.2016	PS
3.	Draft proposed & placed before the second member	.03.2016	JM/AM
4.	Draft discussed/approved by Second Member.	.03.2016	JM/AM
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6.	Kept for pronouncement on	.03.2016	PS

7.	File sent to the Bench Clerk	08.03.2016	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		