

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI D.T. GARASIA, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No.4929/M/2016
Assessment Year: 2009-10**

Mr. Rakesh Inder Bachani, C-603, Himachal Building, S.V. Road, Malad (West), Mumbai – 400 064 PAN: AEYPB3889C	Vs.	Income Tax Officer, Ward 30(3)(1), C13, 6 th Floor, Pratyakshkar Bhavan, Bandra (East) Mumbai - 400051
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Haresh P. Shah, A.R.
Revenue by : Miss Anupama Singla, D.R.

Date of Hearing : 10.04.2017
Date of Pronouncement : 10.04.2017

ORDER

Per D.T. Garasia, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 06.05.2016 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2009-10.

2. The short facts of the case are as under:

During the year under consideration, assessee booked the turnover as per trading, profit & loss account is Rs.5,42,76,915/-. The net profit was shown at Rs.9,66,722/- after debiting various expenses and from the information received by the Assessing Officer (hereinafter referred to as the AO) that assessee has made purchases from M/s. Atlas Enterprise of Rs.58,240/- , M/s. Jigan Enterprises of Rs.2,93,956/-, M/s. Arihant Corporation of Rs.8,45,419/-, M/s. Shree Amaaya Enterprises of Rs.19,48,669/-, M/s. SP.P. Corporation of Rs.21,17,180/-, M/s. L.P. Traders of Rs.22,11,934/- and M/s. Dev Enterprises

of Rs.29,30,023/- in totaling Rs.1,04,05,421/- whose name appears in the list of bogus purchases. AO asked assessee to produce these parties for verification. But assessee could not produce these parties. The parties were declared by Sales Tax Department, Government of Maharashtra as bogus hawala dealers. Therefore, AO has made the addition of 6% of the total bogus purchases which comes to Rs.6,24,625/-.

3. The matter brought to Ld. CIT(A) and the Ld. CIT(A) confirmed the same.

4. We have heard the rival contentions of both the parties. We find that there was no compliance from the 7 parties in response to notice issued by AO under section 133(6) of the Act. Assessee failed to produce the parties. No alternative address as filed in respect of said parties. The enquiry and investigation conducted by the Sales Tax Department declared them as hawala dealers. Therefore, Ld. CIT(A) has relied upon the decision of Vijay Proteins Ltd. vs. CIT (2015) 58 taxmann.com 44 (Guj.) and CIT vs. Simit P. Sheth (2013) 356 ITR 451 (Guj.) and held that only profit embedded can be added in such transaction of purchase and sales. Therefore, Ld. CIT(A) is justified in his action and our interference is not required.

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

Order pronounced in the open court on 10.04.2017.

Sd/-
(Manoj Kumar Aggarwal)
ACCOUNTANT MEMBER

Sd/-
(D.T. Garasia)
JUDICIAL MEMBER

Mumbai, Dated: 10.04.2017.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent

The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.