

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : SMC : NEW DELHI

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

ITA No.2679/Del/2017
Assessment Year : 2006-07

Gaurav Bhutani,
58, SSI Indl. Area,
G.T. Karnal Road,
New Delhi.

Vs.

ITO,
Ward-19(3),
New Delhi.

PAN: AHLPB6008M

(Appellant)

(Respondent)

Assessee By : Ms Sonia, CA &
Shri V.R. Sachdev, FCA
Department By : Shri T. Vasanthan, Sr. DR

Date of Hearing : 17.10.2017
Date of Pronouncement : 18.10.2017

ORDER

This appeal by the assessee is directed against the order passed by
the CIT(A) on 27.02.2017 in relation to the assessment year 2006-07.

2. Both the grounds raised in this appeal relate to the only issue of purchase of Aluminum scrap from M/s Shree Bankey Bihari Trading Co., treated by the authorities as bogus.

3. Briefly stated, the facts of the case are that the Assessing Officer received information from ACIT, Central Circle-10 that Shri Rakesh Gupta and Shri Vishesh Gupta were indulging in providing accommodation entries and charging commission from the beneficiaries. The assessee had shown purchases of Rs.2,68,269/- from M/s Shree Bankey Bihari Trading Co., which was controlled and managed by the above said entry operators. Notice u/s 148 was issued. The Assessing Officer made addition by treating such purchases as bogus. In addition, he also made an addition of Rs.1,341/-, being, commission paid @ 0.25 to 0.50 per 100 on the above said purchase treated as bogus. The Id. CIT(A) sustained the addition, against which the assessee has come up in appeal before the Tribunal.

4. I have heard the rival submissions and perused the relevant material on record. Statement of Shri Vishesh Gupta is available on

page 138 of the paper book. In response to question No.2, he submitted that 95% of his business was of issuing bogus purchase bills and accommodation entries. In answer to question no. 3, he stated the *modus operandi* for issuing bogus bills during financial years 2004-05 to 2010-11 through his concerns, which also include M/s Shree Bankey Bihari Trading Co., from whom the assessee had shown purchases. Similar statement was made by Shri Rakesh Gupta, a copy of which is available at page 132 of the paper book. He also admitted of doing 95% of his business through these concerns as bogus. A close scrutiny of these statements shows that firstly name of the assessee is not appearing as a beneficiary of accommodation entry. Secondly, both of them admitted that 95% of the business was of accommodation entries, impliedly, 5% of the business was genuine. It is further noticed that the assessee made total purchase during the year amounting to Rs.22.43 lac and made sales amounting to Rs.34.08 lac. Sales made by the assessee have not been disputed by the Assessing Officer. It is further important to note that both Shri Vishesh Gupta and Shri Rakesh Gupta admitted the provision of accommodation entries during financial years 2004-05 to 2010-11.

The case of the assessee for the immediately succeeding year, namely, A.Y. 2007-08 was taken up for consideration after issuing notice u/s 148 on the ground of receiving accommodation entries. Vide order dated 26.02.2015, whose copy is available on pages 136 and 137 of the paper book, the Assessing Officer accepted the returned income without making any addition. The AO has recorded in such order that: "There was information received from ITO, Ward 19(1), New Delhi which was based on the information circulated by the DCIT/ACIT, Central Circle-10, Jhandewalan, New Delhi alleging that M/s Durga Precision was a beneficiary of accommodation entry of Rs.4,81,117/-, of which Shri Gaurav Bhutani (the assessee in question) is the proprietor." Thereafter, notice u/s 148 was issued and in the final assessment order, the Assessing Officer held that the assessee was not the beneficiary of any accommodation entry provided by the accommodation entry providers. Assessment year 2007-08 is also covered within the period of 2004-05 to 2010-11 stated by Shri Vishesh Gupta and Shri Rakesh Gupta during which they issued accommodation entries. Since Shri Vishesh Gupta and Shri Rakesh Gupta did not specifically name the assessee as a

beneficiary of accommodation entry; admitted that 5% of their business transactions were genuine; and the Assessing Officer accepting similar entries as genuine in the immediately succeeding assessment year by means of assessment order passed u/s 143(3) read with section 147, I am of the considered opinion that the additions made by the Assessing Officer on this score and sustained in the first appeal deserve to be deleted. I order accordingly.

5. In the result, the appeal is allowed.

The order pronounced in the open court on 18.10.2017.

Sd/-

[R.S. SYAL]
VICE PRESIDENT

Dated, 18th October, 2017.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.