



ITA.No.2597/Mum/2016  
Capitol Fibres Private Limited  
Assessment Year-2011-12

**आयकर अपीलीय अधिकरण "बी" न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"B" BENCH, MUMBAI**

श्री डी.टी. गरसिया, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।  
**BEFORE SHRI D.T. GARASIA, JM AND**  
**SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No.2597/Mum/2016  
(निर्धारण वर्ष / Assessment Year: 2011-12)

<b>Capitol Fibers Private Limited</b> Plot No.C-30,Road NO.16 Wagle Industrial Estate Thane-400 604	<b>बनाम/</b> Vs.	<b>Income Tax Office Ward 1(3)</b> Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. <b>AAACC-6928-J</b>		
(□ पीलार्थी / <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Dr. P.Daniel ,Ld.AR
<b>Revenue by</b>	:	V.Jenardhanan, Ld. Sr. DR

सुनवाई की तारीख / <b>Date of Hearing</b>	:	25/10/2017
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	01/11 /2017

**आदेश / ORDER**

**Per Manoj Kumar Aggarwal (Accountant Member)**

1. The captioned appeal by assessee for Assessment Year [AY] 2011-12 assails the order of the Ld. Commissioner of Income-Tax (Appeals)-3 [CIT(A)], Nasik, *Appeal No. 118/15-16/NSK(Old 240/14-15/THN)* dated 29/01/2016. The assessment for impugned AY was framed by *Ld. Income Tax Officer 1(3), Thane [AO] u/s 143(3) read with Section 147 of the Income Tax Act, 1961* on 30/03/2014. The only



effective ground pressed by Ld. Counsel for Assessee [AR] before us is estimation on account of certain *bogus purchases*.

2.1 Facts leading to the same are that the assessee being *resident corporate assessee* engaged in the business of *manufacturing of regenerated staple fibre* was subjected to an assessment u/s 143(3) read with Section 147 for impugned AY on 30/03/2014 at Rs.2,05,77,012/- under normal provisions before set-off of brought forward losses and after addition of certain *bogus purchases* for Rs.1,82,93,027/-. The original return was *filed* on 01/10/2011 at Nil which was processed u/s 143(1). The solitary issue involved in the appeal is addition against *bogus purchases*.

2.2 The reassessment proceedings were initiated upon receipt of certain information from *Sales Tax Department, Maharashtra* regarding dealers indulging in *bogus purchase bills* and it was noted that the assessee stood beneficiary of such *bogus purchase bills* to the tune of Rs.1,82,93,027/- from two such entities. Consequently, notice u/s 148 dated 18/03/2013 was issued to the assessee which was followed by statutory notices u/s 143(2) and 142(1). The assessee reflected turnover of Rs.19.65 crores with Gross Profit / Net Profit rates of 11.32% & 3.05%.

2.3 The assessee submitted that purchases were genuine since payments were made to the supplier through banking channels. However, not convinced, Ld. AO treated the same as accommodation entries and added the same to the income of the assessee.

3. Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 29/01/2016 where the



assessee pointed out certain error in figures picked up by Ld. AO and also drew attention to declared Gross Profit Rate over several years. The assessee also submitted party-wise bill details, quantitative details etc. to contend that the material was used in the production process. The Ld. CIT(A), after due consideration, concluded that the amount of *alleged bogus purchases* made by assessee was Rs.1,28,06,504/- against which addition of 25% was sufficient to account for undue benefit obtained by the assessee. Aggrieved, the assessee is in further appeal before us.

4. The Ld. AR pleaded that the estimation as made by Ld. CIT(A) was on the higher side and further, the benefit of VAT subsequently reversed by the assessee against *alleged bogus purchases* should be granted to him. Per *Contra*, Ld. DR pleaded for confirmation of the order of first appellate authority.

5. We have carefully heard the rival contentions and perused relevant material on record. We are of the considered opinion that there could be no sale without purchase /consumption of material since the assessee was engaged in *manufacturing activities*. The sales turnover achieved by the assessee has not been disputed by the revenue and the payments were through banking channels. The purchases were backed by invoices. At the same time, the assessee could not produce any confirmation from the impugned supplier which cast serious doubt on assessee's claim. Therefore, in such a situation, the addition, which could be made, was to account for profit element embedded in these purchase transactions to factorize for profit element earned by assessee against possible purchase of material in the *grey market* and undue



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benefit of VAT against such bogus purchases, which Ld. CIT(A) has rightly done. However, we find the estimation to be on the higher side and hence, keeping in view the overall facts and circumstances of the case, we restrict the same to 10% of *alleged bogus purchases*. The Ld. AR has contended that the assessee has reversed VAT @5% amounting to Rs.5,62,648/- out of these purchases. A copy of VAT returns dated 22/03/2012 & 11/10/2012 for the relevant period as placed on record substantiate the same since it is observed that the assessee has reversed VAT credit of Rs.5,62,648/- in subsequent revised return. Hence, the addition is estimated on net *alleged bogus purchases* i.e. Rs.1,28,06,504/- less Rs.5,62,648/-. Resultantly, the addition is restricted to 10% of Rs.1,22,43,856/- which comes to Rs.12,24,386/-.

6. Resultantly, the assessee's appeal stands partly allowed.

*Order pronounced in the open court on 01<sup>st</sup> November, 2017.*

Sd/-

**(D.T. Garasia)**

न्यायिक सदस्य / **Judicial Member**

मुंबई Mumbai; दिनांक Dated : 01.11 .2017

Sr.PS:- *Thirumalesh*

**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

Sd/-

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai