

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD BENCH

**Before: Shri Rajpal Yadav, Judicial Member
And Shri Amarjit Singh, Accountant Member**

**ITA No. 3042/Ahd/2014
Assessment Year 2007-08**

Shi Kiritkumar Vasantbhai Thakkar, Prop. Of M/s. Divya Traders PAN: ADVPT8412B (Appellant)	Vs	The ITO, Wd-1, Patan (Respondent)
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**Revenue by: Shri Mudit Nagpal, Sr. D.R.
Assessee by: Shri M. S. Chhajad, A.R.**

Date of hearing : 22-11-2017
Date of pronouncement : 27-11-2017

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2007-08, arises from order of the CIT(A), Gandhinagar dated 14-07-2014, in proceedings under section 147 r.w.s. 143(3) of the Income Tax Act, 1961; in short the Act.

2. The assessee has raised following grounds of appeal:-

"1.1 That on the facts and in the circumstances of the case and as per law, learned CIT (Appeals) erred in sustaining additions of Rs. 5,09,032 out of

additions of Rs. 20,36,127 made by the assessing officer on the ground of "bogus purchases".

1.2 That on the facts and in the circumstances of the case and as per law, learned CIT (Appeals) erred in determining the additions @25% of the unproved purchases without considering the fact that appellant is a Trader in food grains on wholesale market and he maintains quantity records. Hence, disallowance sustained by the Learned CIT (Appeals) is not reasonable as per the facts and circumstances and deserves to be deleted.

1.3 That learned CIT (Appeals) have erred in relying on the decision of Gujarat High Court in the case of "Sanjay Oil Cake Industries" to determine the disallowance @ 25% without considering the fact that same is clearly distinguishable on the facts and same can-not be applied in the instant case of the appellant."

3. In this case, return of income declaring income of Rs. 1,51,400/- was filed on 29th October, 2007. Subsequently, the case was reopened u/s. 147 of the act by issuing of notice u/s. 148 on the basis of admission u/s. 131(1) of the act made by Shree Dharmendra J. Pandya, proprietor of M/s Vishal Trader stating that he was issuing only bogus bills/adjustment bill of to various parties for commission. The assessee has shown purchases from M/s Vishal Trader during financial 2006-07 to the amount of Rs. 20,36,127/-, Therefore, the case of the assessee was reopened to verify the genuineness of the aforesaid purchases made from M/s. Vishal Traders. Responding to notice u/s. 148, the assessee has stated that his original return filed may be treated as return filed in response to notice u/s. 148 of the act. The assessee has admitted in his statement that he has made bogus purchases from M/s. Vishal Trader during financial year 2006-07 to the amount of Rs. 20,36,137/-. The relevant part of question and answer of the statement of the assessee is reproduced as under:-

“Q.7 You have shown the purchase of rice of Rs 2036127/- during financial year 2006-07 from M/s Vishal Traders Kheda. Is the purchase really effected or this purchase of rice bogus?”

Kirtibhai Answer : - Yes , This purchase is also bogus. Only bills are received for such purchase There was no delivery of goods and amount has been paid by account payee cheque.”

The assessee failed to produce the copy of gate pass, LR receipt, challan, vouchers as evidences and admitted that he was not having such evidences. Consequently, the assessing officer has disallowed the entire purchases of Rs. 20,36,127/- made from M/s. Vishal Trader. Aggrieved assessee filed appeal before the Id. CIT(A). The Ld. CIT(A) has partly allowed the appeal of the assessee by observing as under:-

“4.3 I have considered the facts of the case, assessment order and the submission made by the appellant and find that in appellant's own case for AY 2008-09, the CIT(A)-I, Ahmedabad in appellate order Mo. CIT(A)-I/CC.1(1)/137/2010-11 dated 13/3/2012, on identical issue has held as under:

“it has been stated in the assessment order in para 3.1 that during the course of search and survey proceedings in the case of Edible Oil Mill Group, it was noticed that M/s. Vishal Traders, Virpur, district Kheda had issued bogus /adjustment bills to a large number of concerns of Mehsana and Patan districts of Gujarat during FY 2006-07 onwards. That the proprietor of M/s. Vishal Traders in the statement recorded by the department admitted that he issued bogus/ adjustment bills only. In the assessment the Assessing Officer added back purchases of Rs.97,87,524 made from Vishal Traders by the appellant.

6. On going through the assessment order it can be deduced that the Assessing Officer made the addition of bogus purchases for following reasons:

1. Search in the case of Shri Madanlal L. Shah and his statement : Search and survey action in Edible Oil Mill Group cases on 1.9.2008 revealed that many concerns were obtaining only bills to claim purchases in excess of their accounts. In para 3.4 of the assessment order has mentioned that a search u/s.132 was conducted in the case of Shri Madanlal L. Shah on 1.3.2008. He informed in statement dated 22.9.2008 that he had introduced various traders of Harij and Patan to Shri Dharmendra J. Pandya, proprietor of M/s. Vishal Traders, Virpur. He had further confirmed that M/s. Vishal Traders Virpur had issued only bogus bills and no delivery of goods had been made by it. That Vishal Traders had issued only bogus / adjustment bills and had not delivered any goods like oil cakes or any other items mentioned in the bill. That vehicle numbers written in the bills were also fictitious. In para 3.6 of the assessment order the Assessing officer has stated that no details and registers were produced by the assessee. He has mentioned that cross examination of Shri Madanlal L. Shah was given to the representative of the assessee.

2. Statements of the proprietor of Vishal Traders : Bogus purchases were made by the assessee from M/s. Vishal Traders. This was proved by the statements recorded of the proprietor of Vishal Traders - (532, Market Yard, Virpur, District- Kheda) whose proprietor - Shri Dharmendra J. Pandya in the statements recorded by the department on 9.7.2008 and 26.9.2008 admitted that he had issued only bogus bills and had not made any delivery of goods. He stated that he received only cash commission for issuing bills. Copies of statements of the Shri Dharmendra J. Pandya were provided to the appellant by the Assessing Officer. The Assessing Officer added Rs.97,87,524 because according to him the assessee had shown purchases of Rs.97,87,524 from Vishal Traders during AY 2008-09.

3. Despite opportunities purchases from Vishal Traders not proved by the assessee : para 3.6 of the assessment order informs that the Assessing Officer through notice dated 13.8.2010 and letter dated 8.10.2010 asked the assessee to produce various details and registers. In para 3.7 of the assessment order the Assessing officer has elaborated this point and has stated that he asked the assessee to substantiate the claim of purchases by producing gate-pass, L.R, receipts, challans, vouchers etc.

He asked the assessee to establish quantitative co-relation between the purchase and sales in view of the manufacturing process flow chart, yield percentage, wastage ratio and power consumption. The Assessing Officer has reproduced from page 6 to 8 of the assessment order the final show cause notice dated 8.10.2010 issued to the appellant before making bogus purchases addition. Despite opportunities, the assessee did not produce any evidences asked by the Assessing Officer.

4. Analysis bank account of Vishal Traders : ip. para 3.2 of the assessment order, the Assessing Officer has stated that on perusal of the bank statements of the bank accounts opened by Shri Dharmendra J. Pandya, proprietor of I/Ws. Vishal Traders, Virpur a continuous pattern of deposit and immediate cash withdrawal is clearly seen. That such a pattern is not seen in any actual manufacturing concern. According to the Assessing Officer this pattern of deposit in bank account of Vishal Traders followed by immediate cash withdrawal is in consonance with the statements of Sh i Dharmendra J. Pandya and Madanlal L Shah that only bogus bills were issued.

5. Reliance upon case laws : While making addition of bogus purchases of Rs.97,87,524 from Vishal Traders by the appellant the A.O. has relied upon following decisions :

1. CIT vs. La Medica 250 ITR 0575 (2001) (Delhi High Court)
2. Sree Rajvet & Co. vs. CIT 268 ITR 026? (2003) (Kerala High Court)
3. Beena Metals vs. CIT 240 ITR 0222(1999) (Kerala High Court)
4. Kaveri Rice Mills vs. CIT 157 Taxman 0376 (2006) (Allahabad High Court)

7. The appellant was asked to submit information through this -office letter dated 7.2.2012 which is reproduced below :

12. After going through rival submissions following points emerge:

1. As per Audit Report filed with return at Rs. 1,13,090 on 303.2009 for AY 2008-09 the appellant is engaged in the business of "Trading of agriculture products". For the sake of clarity Trading and P&t account is enclosed as Annexure-I of this order which shows that, the appellant purchased Gawar, Wheat, Rice, Ghana, Mung, Bardan and sold Gawar, Wheat, Rice, Ghana. Total purchases of wheat etc. as per Trading account come to Rs.4,02,16,125. Sales come to Rs.4,43,38,038. Out of total purchases debited in the trading account of Rs.4,02,16,125, purchases made from Vishal Traders of Rs.97,87,524 have been disallowed. During the appellate proceedings the appellant contended that purchases from Vishal Traders were actually only Rs.77,17,094 and have been added wrongly at Rs.97,87,524 by the Assessing Officer.

The Assessing Officer has confirmed in the remand report that purchases from Vishal Traders as verified by him made by t:h= appellant during AY 2008-09 were Rs.77,17,094 only. Exact portion from the remand report is reproduced here :

"On examination of seized material and boohs of account of the assessee, his claim that purchases from M/s Vishal Traders for AY;08-09 stood at Rs 77,17,094 is found to be correct. The difference has arisen rn account of wrongly attributing certain deposit entries (against purchases) appearing in the Harij Nagarik Bank statement of M/s Vishal Traders to M/s Divya Traders (Prop Kiritkumar V Thakhar) in place of other parties."

Therefore the purchases from Vishal Traders are taken at Rs.77,17,094 and the balance Rs.20,70,430 (Rs.97,87,524 - Rs.77/17,094) ' directed to be deleted because at the remand report stage the assessing officer has verified that the contention of the appellant is correct that the purchases were of Rs.77,17,094/-made by the appellant from Vishal Traders.

2. The appellant - Shri Kiritkumar Vasantbhai Thakkar who is the proprietor of M/s. Divya Traders - in the statement recorded after survey on 10.10.2008 has accepted himself that accommodation bills were laken from Vishal Traders. The relevant portion of the statement in response to question no.3 is reproduced below:

Statement dated 10.10.2008 of Shri Kiritkumar Vasantbhai Thakkar-proprietor -in response to question no.3 :

"Q.3 As per this office letter dated 7.10.2008 you had been instructed to prove the purchase of Rs.72,39,874, from M/s. Vishal Traders, Virpur and to bring bills and other evidence in support to the purchase. As informed by you, you have purchased of Rs.72,39,874 from M/s. Vishal Traders. However, as per bank statement of M/s. Vishal Traders with "Harij Nagrik Sahakari Bank Ltd., Harij", you have deposited Rs.1,10,14,492 in the said bank account. Explain about the same. Further, if you have brought anything in addition to Bills please produce it.

Ans. 11:- I have no other evidences except bills. On .119.9.2008, I have stated that I received the goods from M/s, Vishal Traders. However, I, confirm that I had not received any goods from M/s. Vishal Traders, Virpu¹-. I had received only accommodation, bids from M/s. Vishal Traders. I was benefited by 10% of bill amount Further, in my statement on 29.9.2008 I had stated that I purchased goods worth Rs.72,39,874 from M/s. Vishal Traders. However, as per Bank statement I have done business amounting to Rs.1,10,14,492 with M/s. Vishal Traders. I have earned 10% of the same i.e. Rs.11,01,449. I disclose the same as my income I agree to pay tax thereon. I will deposit the tax in FY 2008-09."

3. Vishal Trader proprietor - Dharmendra Pandya - has also confirmed having issued only bill without goods for which he received only commission. For this question number 13 of statement dated 9.7.2008 of Dharmendra Pandya is reproduced below 'ind also question number 7 of statement dated 26.9.2008 : "Question No. 13 of statement dated 9.7.2008 :

"Q..S As stated in the bills, has the firm of M/s. Vishal Traders, proprietor Dharmendra D. Pandya, Address :- 532, Market Yari, Virpur, Kheda, delivered any goods such as 'Raida' 'Khol', 'Raido' 'Erando', etc. to M/s. Tirupati Agro Industries, Kadi as well as other various companies such as Guaj'rat Ambuja Exports Ltd., the traders of Harij and traders of Ahmedabad, Kalupur ? Give complete details. Ans, The firm of M/s. Vishal Traders, Proprietor Dharmendra D. Pandya, Address: 532, Market Yard, Virpura, Kheda, has not delivered any goods such as 'Raida', 'Khol', 'Raido', 'Erando', oil etc. to anybody and further, it doing its business. Only bills were being issued upon which, I was being paid the commission of monthly about Rs.2000 to 3000 through Shri Madanlal (Talodwala). He was personally coming to Godhra and was paying commission to me. Against the payment of commission to me, the said Shri Madanlal (Talodwala) was taking my signature in the bank account opening forms as well as cheque books of all banks....."

Question No.7 of statement dated 26.9.2008:

"Q.7 As stated by you hereinabove, you have delivered any type of goods and have only issued bogus bills to the parties. So how does you benefit from the same? How were the parties to whom you had issued the bogus bills, benefiting from the same? Please explain.

Ans. As stated by me hereinabove, I have not delivered any type of goods but have only issued bogus bills. In these transactions, in case of one bag of grains (100 kgs.), I was getting Rs.1 as commission and in case of oilseeds, per one bag (100 kgs), I was getting commission of Rs.0.25 paise as commission. And these bogus bills were demanded by the above referred parties and hence, they were given the same. I am not aware as to what benefit they were getting from the same. I had issued the said bogus bill only because I was getting commission against them."

4. The appellant in his reply reproduced in para 11 above has emphasized that he is only a trader and has maintained quantitative details, Quantitative tally of the items purchased, consumed and sold is mentioned in the Annexure of Column 28(a) of the Audit Report which is enclosed as Annexure-2 of this order.

This point that quantitative details have been maintained was made by the appellant in the submission dated 16.2.2012 also which was sent to the Assessing Officer for report. It is true that Sales and closing stock quantity have not been disputed by the Assessing Officer at assessment or at remand report stage. The Assessing Officer has still requested the entire addition to be upheld "brt; the basis of the assessment order and that no evidence had been furnished by the appellant in support of the contention that bills were obtained from Vishal Traders to regularize the purchases made from farmers. In this regard, the Assessing Officer has stated in his report dated 9.?.2012 : "With respect to other contentions raised by the assessee in his submission-dated 16/02/12, it is to submit that no evidence has been submitted by the assessee to prove his claim that bills obtained from M/s Vishal Traders were meant to regularize the purchases from mandifarmers who do not have bill books. In view of the same, it is requested that the assessment order be upheld and entire purchases from M/s Vishal Traders be disallowed."

5. Analysis of the bank account of the appellant maintain-^ at Harij Nagrik Sahakari Bank Ltd., Harij and of Vishal Traders in the same bank shows that appellant deposits cash in his bank account before issuing any cheque to Vishal Traders and Vishal Traders withdraws cash of the same amount immediately after depositing the cheque received from the appellant. A few such examples are given below : Appellant's (Divva Traders) bank account:

Date	Narration	Deposit	Withdrawals
1.8.2007	By clearing By cash	Rs.2,29,488 Rs. 1,71,000	
1.8.2007	To Transfer cheque No. 979464		Rs.4,00,000
23.1.2008	By Trns.	Rs.5,75,000	
23.12.2008	To Transfer Vishal Traders, cheque No. 990901		Rs.5,75,000

6. Analysis of Vishal Traders, bank account in the same-bank shows that on the same date i.e. 1.8.2007 and 23.1.2008 first cash is deposited and then cheques issued to Divya Traders. Account of Divya Traders shows that immediately on receipt of cheque from the Appellant cash of the same amount is withdrawn. The relevant unifies of the bank account Vishal Traders in Harij Bank are reproduced below:

Vishal Traders bar.k A/c,

Date	Narration	Deposit	Withdrawals
1.8.2007	Divya Traders, cheque No. 979464	Rs.4, 00,000	
1.8.2007	Cash self		Rs.4,00,000
23.1.2008	Transfer Divya Traders, cheque No. 990901	Rs.5,75,000	
23.1.2008	Cash self		Rs.5,75,000

in the above bank transactions of the appellant and Vishal Traders only a sample of purchases made from Vishal Traders and the method of payment has been taken, which knows that what was given through cheques to Vishal Traders reached back the appellant, and that is why the cash deposits in his account just before or after issuing cheques to Vishal Traders. The transactions / payments by the appellant to Vishal Traders are only

an eye wash, specially when both the appellant, and Vishal Traders (Dharmendra Pandya) are confirming that what was transacted was only accommodation bills.

6. Now the point is that Sales and consumption portion of the quantitative tally of the stock has not been punctured by the department. The appellant is conceding that if the purchases were not made from Vishal Traders then they were certainly from others to save vat etc. And therefore it can be concluded that the purchases are inflated. In this background I find that the case of the appellant is covered by Hon'ble Gujarat High Court decision in the case of Sanjav Industries vs. CIT (2009) 316 ITR 274 (Guj.) decision dated March 4, 2008. Para 11 to 13 of Hon'ble Gujarat High Court decision in the case of Sanjay Oil Cake Industries are reproduced below wherein Hon'ble Gujarat High Court upheld Hon'ble ITAT finding of upholding 25% addition on account of bogus purchases:

"11. Having heard the learned advocates appearing for the respective parties, it is apparent that no interference is called for in the impugned order of the Tribunal dated April 29, 1994, read with the order dated September 29, 1994, made in miscellaneous application. In the principal order -the Tribunal has recorded the following findings :

"8.3. We have considered the rival submissions and perused the facts on record. In our opinion, the action of the Commissioner of income-tax (Appeals) confirming 25 per cent, of the amounts claimed is fair and reasonable and no interference is called for. The Commissioner of Income-tax (Appeals) has gone through the purchase prices of the raw material prevalent at the time and rightly came to the conclusion that the disallowance to the extent of 25 per cent, was called for. It is established that the parties were not traceable; they opened the bank accounts in which the cheques were credited but soon thereafter the amounts were withdrawn by bearer cheques. That fairly leads to the conclusion that these parties were perhaps creation of the assessee itself for the purpose of banking purchases into books of account because the purchases with bills were not feasible. Thus, the above noted parties become conduit pipes between the assessee - firm and the sellers of the raw materials. Under the circumstances, it was not impossible for the assessee to inflate the prices of raw materials. Accordingly, an addition at the rate of 25 per cent, for extra price paid to the assessee than over and above the prevalent price is fair and reasonable and we, accordingly confirm the finding of the Commissioner of Income-tax (Appeals)."

12. Thus, it is apparent that both the Commissioner (Appeals) and the Tribunal have concurrently accepted the finding of the Assessing Officer that the apparent sellers who had issued sale bills were not traceable. Those goods were received, from the parties other than the persons who had issued bills for such goods. Though the purchases are shown to have been made by making payment thereof by account payee cheques, the cheques have been deposited in bank accounts ostensibly in the name of the apparent sellers, thereafter the entire amount has been withdrawn by bearer cheques and there is no trace or identity of the person withdrawing the amount from the bank accounts. In the light of the aforesaid nature of evidence it is not possible to record a different conclusion, different from the one recorded by the Commissioner (Appeals) and the Tribunal concurrently holding that the apparent sellers were not genuine, or were acting as conduit between the assessee - firm and the actual sellers of the raw materials. Both the Commissioner (Appeals) and the Tribunal have, therefore, come to the conclusion that in such circumstances, the likelihood of the purchase price being inflated cannot be ruled out and there is no material to dislodge such finding. The issue is not whether the purchase price reflected in the books of account matches the purchase price stated to have been paid to other person. The issue is whether the purchase price paid by the assessee is reflected as receipts by the recipients. The assessee has, by set of evidence available on record, made it possible for the recipients not being traceable for the purpose of inquiry as to whether the payments made by the assessee have been actually received by the apparent sellers. Hence, the estimate made by the two appellate authorities does not warrant interference. Even otherwise, whether the estimate should be at a particular sum or at a different sum, can never be an issue of law.

13. In the aforesaid set of facts and circumstances of the case, the impugned order of the Tribunal is an order which is made in accordance with law and does not require any interference. The questions referred =: the instance of the assessee as well as the Revenue are, therefore answered in the affirmative, i.e., in favour of the Revenue and against reassessee in relation to the questions at the instance of the assessee, and in favour of the assessee and against the Revenue in relation to the questions at the instance of the Revenue."

7. In the instant case out of total purchases of Rs.4,02,16,125, purchases from Vishal Traders of Rs.77,17,094 are accommodation entries, to regularize purchase made from others at lower rates to save taxes like VAT etc. This contention of the appellant has to be accepted because consumption of quantity and sales status has not been challenged by the department. Therefore, in my view case is covered by jurisdictional High Court decision in the case of Sanjav Oil Cake Industries 316 ITR 274 (Guj.).

The cases of bogus purchases additions of M/s. Janet Steel Traders (where 12.5% addition has been upheld) and M/s. Arihant Chemicals (where addition has been restricted to 9.5% G.P. rate) of Hon'ble Ahmedabad ITAT Bench 'D' and 'C' relied upon by the appellant in the reply dated 9.3.2012. (reply reproduced in para 11 above) are not applicable at all because in these cases no search and seizure or survey operations were held, neither the statements of the bogus parties or the assessee themselves confessing adopting accommodation bills are available. But in the case under consideration the appellant has himself conceded twice once in the statement dated 10.10.2008 (vide reply to question no.3) and second time during appellate proceedings vide reply dated 16.2.2012 (Annexure-3 of this order) that to regularize the accounts, bills were obtained from Vishal Traders, Exact portion from the reply is "in this connection, we have to state that the appellant is a trader in food grains and purchases items from mandi / farmers who do not have bill books. Hence, to regularize the accounts, bills were obtained from M/s. Vishal Traders. During the financial year 2007-08, relevant to AY 2008-09, the appellant procured such bills from Vishal Traders for which Vishal Traders was paid Rs.75,70,524 through

cheques against the said bills as per Annexure-1. Total purchases from Vishal Traders was Rs.77,17,094 against Rs.57,87,524 addition made by A.O. This is proved by the sales and the closing stock reflected in the audit report for the year under consideration." Therefore, this is a case of inflated purchases, especially when in the statement dated 10.10.2008 the proprietor (Kiritkumar Vasantbhai Thakkar) has himself confirmed obtaining accommodation bills and so has the proprietor of Vishal Traders in his statements dated 9.7.2008 and 26.9.2008 confirmed having given accommodation bills only. Obtaining of accommodation bills from Vishal Traders has been further accepted in the reply dated 16.2.12. which has been reproduced above. As the jurisdictional High Court decision is available on the issue placing reliance upon Hon'ble Gujarat High Court decision in the case of Sanjay Oil Cake Industries 316 ITR 274 the Assessing Officer is directed to restrict the bogus purchases addition from Vishal Traders to 25% of Rs.77,17,094. It may be mentioned here that decisions cited by the Assessing Officer are not of jurisdictional High Court and are distinguishable on facts. 13. Thus in view of the points summarized in para 12 above, in a nutshell, purchases of Rs.77,17,094 shown from Vishal Traders are treated as bogus purchases because of the accommodation bills accepted by the appellant to have been obtained from Vishal Traders which in my view was a technique devised to inflate purchases made from others. It has been confirmed by the appellant himself that bills were obtained to regularize purchases from farmers etc. who could not issue bills.

The cheque payment entries made to Vishal Traders shown in the bank statement become eye-wash transactions only, because cash amount is deposited in the appellant's account on the same date when the cheques are issued to Vishal Traders and Vishal Traders withdraws same cash amount on the same dates when the cheques from the appellant are deposited in the bank. In other words what is shown paid to Vishal Traders reaches back to the appellant. But as the Sales and closing stock quantity has not been disputed by the Assessing Officer's argument of the appellant that, if goods were not purchased from Vishal Traders the same were purchased from others (farmers etc.) "to regularize accounts" has to be accepted and in this background Hon'ble Gujarat High Court decision in the case of Sanjay Oil Cake Industries 316 ITR 274 is squarely applicable wherein 25% of such purchases addition has been upheld and therefore 25% of purchases from Vishal Traders of Rs.77,17,094 which comes to Rs. 19,29,273 is upheld as addition on account of bogus purchases. The remaining addition made by the A.O. is directed to be deleted."

The facts of the case for AY 2006-07 are identical and squarely covered with the order of CIT(A)-I, Ahmedabad. Relying on the decision of the Hon'ble Gujarat High Court in the case of Sanjay Oil Cake Industries 316 ITR 274, which is squarely applicable in the case of the appellant, 25% of such purchases from Vishal Traders of Rs.20,36,127/- which comes to Rs.5,09,032/- is upheld as addition on account of bogus purchases and the remaining addition is directed to be deleted."

4. We have heard rival contention and perused the material on record. After considering the facts and evidences as elaborated supra in this order it is crystal clear that assessee has obtained only bill of purchases from M/s. Vishal Traders without having any delivery of goods. We have also considered the undisputed facts that against the impugned purchases the assessee had shown sale which resulted in gross profit @ 1.9% compared to 1.6% in the preceding financial year. After considering these facts the Id. CIT(A) had restricted the impugned disallowance of purchases from 100% to the extent of 25% after placing reliance on the decision of the hon'ble high court in the case of Sanjay Oil and Cake Industries 316 ITR 274. Considering the above and the detailed findings of the Ld.CIT(A) we do not find any reason to interfere in the decision of Id. CIT(A).

5. Regarding additional ground of assessee filed before us that the issue that notice u/s. 148 of the act is bad and illegal. In this regard, we have noticed that proprietor of M/s Vishal Trader from whom the assessee has made purchases had admitted in the statement that he was indulged in giving bogus bill of purchases/adjustment on the basis of commission without any delivery of goods. He also admitted that he had issued bogus bills of purchases to the amount of Rs. 20,36,127/- to the assessee which is confirmed from the statement of the assessee as mentioned supra in this order. Therefore the case of the assessee was reopened u/s 147 after issuing of notice u/s. 148. In this regard the copy of reason recorded was also supplied to the assessee vide letter dated 6th December, 2012. In view of the above facts and circumstances we observed that there is a no merit in the additional ground of appeal of made by the assessee. Therefore, the additional ground of appeal of the assessee is dismissed.

6. In the result, both the grounds of the appeal of the assessee are dismissed.

Order pronounced in the open court on 27-11-2017

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad : Dated 27/11/2017

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश कललम अषत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलअ अधकरण,
अहमदाबाद