

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "B" BENCH, AHMEDABAD**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER AND  
SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

**ITA Nos.1536, 1537, 1538, 1539 & 1540/Ahd/2014  
Assessment Years: 1993-94, 1994-95, 1995-96, 1996-97, 1997-98**

Asstt. Commissioner of Income Tax, vs. M/s. Synbiotics Limited,  
Circle . 4, Baroda. Wadi Wadi,  
Baroda . 390 007.  
[PAN . AACCS 9831 Q]

**ITA Nos.2638, 2639, 2640, 2641, 2642 & 2643/Ahd/2015  
Assessment Years: 1992-93, 1993-94, 1994-95, 1995-96, 1996-97, 1997-98**

M/s. Synbiotics Limited, vs. Asstt. Commissioner of Income Tax,  
Wadi Wadi, Circle . 4, Baroda.  
Baroda . 390 007.  
[PAN . AACCS 9831 Q]  
(Appellants) (Respondents)

Revenue by : Shri O.P. Pathak, Joint CIT  
Assessee by : Urvashi Shodhan, A.R.

Date of hearing : 29.11.2017  
Date of pronouncement : 13.12.2017

**ORDER**

**PER BENCH:**

The above captioned appeals are cross appeals by the assessee and Revenue preferred against separate orders of the CIT(A), Baroda pertaining to assessment years 1992-93, 1993-94, 1994-95, 1995-96, 1996-97, 1997-98. All these appeals were heard together and are disposed of by this common order for the sake of convenience and brevity

2. The common grievance relates to the finding of the Assessing Officer in respect of certain purchases being treated as sham purchases and the restriction made by the CIT(A) by disallowing the total purchases at 25% thereby giving relief to the assessee in respect of 75% of the total purchases for which the Revenue is in appeal before us and the assessee is in appeal in respect of the addition sustained to the extent of 25%.

3. The relevant fact relates to the finding of the Assessing Officer in respect of certain purchases which was treated as bogus and accordingly additions were made in respect of the total purchases treated as such.
4. We find that though the Assessing Officer has treated certain purchases as bogus purchases but at the same time he has accepted the corresponding sale made out of such bogus purchases.
5. Further, the general principle of accounting says all expenses have to be debited and all income has to be credited and since the purchases are debit entries, we fail to understand how a debit entry has been treated as income of the assessee. When the matter was assailed before the CIT(A), the first appellate authority, after considering the facts and submissions, restricted the disallowance to 25% of the purchases.
6. We find that an identical issue was considered by the Hon'ble jurisdictional High Court of Gujarat in the case of N.K. Industries Limited vs. DCIT, 292 CTR 354 (Guj) and the relevant findings of the Hon'ble jurisdictional High Court read as under :-

***“6. The Tribunal in the case of Vijay Proteins Ltd. (supra) has observed that it would be just and proper to direct the Assessing Officer to restrict the addition in respect of the undisclosed income relating to the purchase to 25% of the total purchases. The said decision was confirmed by this Court as well. On consideration of the matter, we find that facts of the present case are identical to those of M/s. Indian Woolen Carpet Factory (supra) or Vijay Proteins Ltd. (supra). In the present case the Tribunal has categorically observed that the assessee had shown bogus purchases amounting to Rs.2,92,93,288/- and taxing only 25% of these bogus claim goes against the principles of Sections 68 and 69C of the Income Tax Act. The entire purchases shown on the basis of fictitious invoices have been debited in the trading account since the transaction has been found to be bogus. The Tribunal having once come to a categorical finding that the amount of Rs.2,92,93,288/- represented alleged purchases from bogus suppliers it was not incumbent on it to restrict the disallowance to only Rs.73,23,322/-.”***

7. As no distinguishing decision has been brought on record in favour of the Revenue and finding parity in facts with the facts considered by Hon'ble jurisdictional High Court (supra), we decline to interfere with the findings of the CIT(A) in restricting the addition/disallowances to 25% of the bogus purchase.

8. All the appeals by Revenue are accordingly dismissed.
9. Coming to the appeals filed by the assessee, we find that there is a delay of more than a year in all the appeals. The assessee has neither filed any formal request for condonation of delay in filing the appeals nor it has followed the rules prescribed for seeking condonation of delay.
10. All the appeals by the assessee are accordingly dismissed.
11. In the result, all the appeals filed by the Revenue and all the appeals filed by the assessee are dismissed.

(Order pronounced in the open Court on this 13<sup>th</sup> day of December, 2017)

Sd/-  
**Mahavir Prasad**  
(Judicial Member)

Sd/-  
**N.K. Billaiya**  
(Accountant Member)

**Ahmedabad, the 13<sup>th</sup> day of December, 2017**

**PBN/\***

Copies to: (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad*