

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "SMC", MUMBAI

BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER

ITA No. 479/Mum/2018  
Assessment Year : 2009-10

Advance Compseals Pvt. Ltd., 406, Golden Chambers, New Link Road, Andheri (East) MUMBAI [PAN : AAECA7292F]	Vs.	ITO-9(1)(1), MUMBAI
(Appellant)		(Respondent)

Appellant By : NONE  
Respondent By : Shri Vijay Kumar Soni, DR

Date of Hearing : 28-01-2019	Date of Pronouncement : 30-01-2019
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**ORDER**

This appeal is filed by the assessee and the same is directed against the order of the Commissioner of Income Tax(Appeals)-16, Mumbai, dated 15-09-2017 for the AY. 2009-10.

2. The grounds raised by the assessee are as under:

*“EACH AND EVERY GROUND OF APPEAL IS IN THE ALTERNATIVE AND WITHOUT PREJUDICE TO THE OTHER*

1. *During the Year the Assessment was completed u/s 143(2). The Ld A.O Erred in Law and on facts in Reopening the completed assessment without any Lapse on the part of the Assessee or any valid reason Hence the order u/s 147 being Ultra virus and bad in law may be quashed.*

2. *The Ld. AO has Erred in Law and on facts, In reopening of the case U/s 147. He merely relied on the information received from the Maharashtra VAT department and CIT (A) have failed to appreciate the contention of the assessee that AO Could never had "reasons to believe" that income chargeable to tax had escaped the assessment and consequently the reopening is bad in law and ultra-virus. The LD. AO and / CIT (A) failed to appreciate that "suspicious dealers" list by Mvat Dept. do not mean that purchases are bogus.*

3. *The Ld CIT (A) have Erred in law and on Facts in holding the impugned additions in the assessment year 2009-10. The additions are confirmed without understanding the nature of the business of the assessee. Assessee being trader there cannot be any sale without corresponding purchase and hence it is not possible that the purchase can be bogus.*

4. *The Ld. CIT(A) failed to appreciate that the material purchased during the year are duly accounted in the book of the Appellant and the same are supported by proper documentary evidences. The said material was subsequently sold by the Appellant and the profit earned thereon is offered for tax. Hence, addition of entire alleged bogus purchases is unjustified and the same may be deleted.*

5. *The Ld. CIT(A), further, failed to the appreciate that the Ld. A.O. has neither rejected the books of accounts of the Appellant nor pointed any discrepancies in the same. The Ld. A.O. also accepted the sales made during the year. Hence, the Additions made of the purchases in the said circumstances is unjustified and the same may be deleted.*

6. *The Ld. CIT (A) has erred in Law and on Facts disregarding the entire sets of evidences containing various documents submitted before him before the disposal of the appeal.*

7. *The Assessee craves leave to add, amend, alter, amend or drop any or all Grounds of appeal at the time of the Appeal proceedings.*

3. This appeal was fixed for hearing on 28-01-2019. Notice of hearing was sent to the assessee by RPAD on the address provided by the assessee in the appeal memo. The said notice has come back un-served with the remark 'left'. The assessee has not provided any new address and hence, under these facts, service of notice on the assessee is not possible and therefore, I decide the appeal of the assessee *ex-parte qua* the assessee.

4. Ld. DR for the Revenue supported the order of the Ld. CIT(A).

5. I have considered the submissions of Ld. DR for the Revenue and gone through the orders of the authorities below. I find that the issue in dispute in this appeal is regarding addition made by the AO of Rs. 12,87,483/-, which was disallowed by the AO by treating the purchases as bogus purchases. This issue was decided by the Ld. CIT(A) at Para No. 6.2.1 of his order, which is reproduced herein below for the sake of ready reference:

*“6.2.1 Vide this ground appellant has agitated against disallowance of Rs.12,87,483/- as bogus purchases. In Para 5 of the assessment order, the ld. A.O. had mentioned that the appellant had made purchases in the name of following parties.*

<i>Krsna Enterprises</i>	<i>Rs.5,54,540/-</i>
<i>Jain Corporation</i>	<i>Rs.7,32,943/-</i>

*The information was received from the Sales tax department through DGIT(Inv), Mumbai which indicate that the above mentioned parties did not make any genuine sale but only issued bills without supplying any material. During the course of reassessment proceedings the appellant company was asked by the A.O. to file following copies of ledger accounts, purchase bills, delivery challans, lorry receipts, details of transportation payment, details of payment made with cheque no., bank and branch against purchases made, etc. In response to the details failed by the A.O. the appellant only filed the ledger extract and copy of tax invoices. As mentioned in Para 5.5 the ld. A.O. made further invoices by way of issuing notices u/s.133(6) of the I.T. Act. The invoices issued were returned back by postal authorities with the remarks ‘left / not known’. The part information furnished by the appellant during the course of assessment proceedings have also many irregularities which are, mentioned by the A.O. in Para 5.5 of the assessment order. The appellant had failed to provide details regarding actual receipt of material purchased, its subsequent consumption in the business of the appellant, stock register in support of its claim, proof of actual transportation and delivery of material purchased. Since appellant had failed to prove the actual receipt and subsequent consumption of material purchased, therefore, it is a clear cut case of inflation of purchases and reduction of its profit. In absence of any supporting evidences appeal of the appellant cannot be allowed. Hence addition of Rs.12,87,483/- made by the A.O. is confirmed. This ground of appeal is dismissed”.*

5.1. From the above paragraph, which is reproduced from the order of Ld. CIT(A), it is seen that a categorical finding has been given by the Ld. CIT(A) that assessee has failed to provide details regarding actual receipt of material purchased and its subsequent consumption in the business of assessee,

stock register in support of its claim, proof of actual transportation and delivery of material purchased. In view of these facts, I find no reason to interfere with the order of Ld. CIT(A). Grounds raised by assessee are rejected.

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

*Order pronounced in the open court on 30<sup>th</sup> day of January, 2019*

Sd/-  
(A.K. GARODIA)  
लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/Mumbai; दिनांक/Dated : 30<sup>th</sup> January, 2019

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai