

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.1509/M/2018
Assessment Year: 2010-11**

M/s. Dodhia Synthetics Ltd., House No.98/2, New Mavji Compound Narpoli, Bhiwandi - 421 302 PAN: AAACD 9892J	Vs.	Assistant Commissioner of Income Tax, Circle -1, Kalyan, 1 st Floor, Mohan Plaza, Wayale Nagar, Khadak Pada, Kalyan (W)-421 301
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Ambalal Jain, A.R.
Revenue by : Shri D.G. Pansari, D.R.

Date of Hearing : 23.04.2019
Date of Pronouncement : 30.04.2019

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 27.02.2015 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2010-11.

2. The only issue raised by the assessee is against the confirmation of addition of Rs.3,41,855/- by Ld. CIT(A) as made by the AO on account of bogus purchases.

3. The facts in brief are that the assessment in this case was completed under section 143(3) of the Act at Rs.1,37,33,970/- vide order dated 08.02.2013 as against the return of income of

Rs.1,36,22,060/-. Thereafter, the AO received information from Sales Tax Department, Government of Maharashtra that the assessee is beneficiary of bogus purchases of hawala transactions from five parties the details whereof are given on page No.2 of the assessment order. The AO accordingly reopened the assessment of the assessee under section 147 of the Act by issuing notice under section 148 dated 28.06.2013 which was complied with by the assessee by submitting that the original return filed under section 139(1) may kindly be treated as return filed in compliance of notice under section 148 of the Act. The AO called upon the assessee to furnish the bills, vouchers and other evidences to prove the said purchases and also issued notices under section 133(6) to verify the purchases independently. However, the assessee failed to file the necessary evidences in the form of delivery challans, goods receipt notes and nor the parties were produced physically in the assessment proceedings. The notices issued under section 133(6) were returned unserved. The AO finally came to the conclusion that the purchases made from these parties were bogus for which the assessee was not having evidences and has booked these purchases in order to understate the income to the extent of Rs.3,41,855/-.

4. The Ld. CIT(A) also dismissed the appeal of the assessee by upholding the order of AO on the same reasoning that assessee was not having any proof of purchase of goods and the bills were booked only to understate the income to the extent of bogus purchases.

5. After hearing both the parties and perusing the material on record, we observe that in this case the assessee was not having the proofs of purchase of material except the purchase bills. The Ld. A.R. submitted before us that the assessee is operating in a very big way and the turnover during the year was Rs.99 crore and therefore the assessee would not have resorted to the bogus purchases of such a small amount of Rs. Rs.3,41,855/-. The Ld. A.R. also referred the income disclosed by the assessee during the year of Rs.1,37,33,970/- in return of income. The Ld. A.R. prayed before the Bench that since this is a case of genuine purchases in the ordinary course of business, therefore, the authorities below have come to a wrong conclusion that these are made in order to understate the income of the assessee. The Ld. A.R. candidly admitted before us that in such a huge volume of transactions it is not always possible to keep all the records for such petty purchases and requested the Bench to take a very reasonable and lenient view in the matter considering the volume of the transactions of the assessee as the assessee was engaged in the business of dyeing and processing of yarn, manufacturing and sale of fabrics and electricity generation (wind mill).

6. The Ld. D.R., on the other hand, relied on the order of authorities below.

7. After taking into account of the facts, we are of the view that assessee has failed to prove these purchases before the authorities below. However, the assessee was having purchase bills but not the delivery challan, goods transport note, entry of receipts etc. Under these circumstances, we are of the view that

a reasonable percentage should be disallowed in this case and accordingly we are inclined to disallow the purchases to the tune of 30%.

8. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 30.04.2019.

**Sd/-
(Sandeep Gosain)
JUDICIAL MEMBER**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 30.04.2019.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.