

IN THE INCOME TAX APPELLATE TRIBUNAL

AHMEDABAD “C” BENCH

**(BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT
MEMBER & SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 647/AHD/2017
(Assessment Year: 2012-13)**

I.T.O., Ahmedabad	Ward-3(1)(3),	V/S	Patidar Steel Pvt. Ltd. 704/705, Loha Bhavan, Nr. Old High Court, Navrangpura, Ahmedabad- 380009
(Appellant)			(Respondent)

PAN: AAFCP3032R

**Appellant by : Shri Lalit P. Jain, Sr. D.R.
Respondent by : None**

(आदेश)/ORDER

Date of hearing : 28 -02-2019

Date of Pronouncement : 25 -03-2019

PER MAHAVIR PRASAD, JUDICIAL MEMBER

1. This appeal filed by the Revenue is directed against the order of the Ld. CIT(A)-9, Ahmedabad dated 06.01.2017 pertaining to A.Y. 2012-13 and following grounds have been taken:

1. *The Ld. CIT(A) has erred in law and on facts in granting relief of Rs.95,07,750/- out of total addition of Rs.1,26,77,000/- made on account of inflated purchases u/s. 40A(3) of the Act.*

1.1 *The CIT(A) has erred in law and on facts in not appreciated the assessee company did not produce any evidences and also did not put any such claim during the assessment proceedings.*

1.2 *The Ld. CIT(A) has erred in law and on facts in not appreciated the fact that there is an element of bogus purchases without proving the actual receipt of the material which has been used for further trading by issuing bogus sale bills by the assessee as it cannot tantamount to actual expenses incurred towards purchases though without obtaining purchase bills from the genuine suppliers.*

2. *On the facts and circumstances of the case, the Ld. Commissioner of Income tax (A) ought to have upheld the order of the Assessing Officer.*

3. *It is, therefore, prayed that the order of the Ld. Commissioner of Income Tax (A) may be set- aside and that of the Assessing Officer be restored.*

2. This case is regarding inflated and bogus purchases. Assessee was issued four notices by the ITAT but it did not appear before us. Therefore, after hearing the ld. D.R. and on the basis of record available with us. We would like to dispose of this appeal in the absence of assessee .

3. In this case, a search was conducted in the case of Tricon Construction Ahmedabad on 05/12/2015. During the search it was learnt by the Investigation Wing that the said concern was obtaining bogus bills for material/labour. Various persons were involved in issuance of such bogus bills. Detailed post search investigations revealed that there were several bogus billers who had been issuing the bills without supplying actual material/labour. These bogus billers had admitted during the post search investigation that the

amounts were withdrawn by them in cash on receipt of cheque by M/s. Tricon Construction and was return back to the same after deducting their small commission. During the assessment proceedings the A.O had called for various details based on the information received from the Investigation Wing in respect of bogus billers. The A.R of the appellant has furnished incomplete details during the assessment proceedings. Further the A.O has himself based on the information of the Investigation Wing has conducted certain enquiries u/s. 133(6) of the Act and thereafter had informed the results of the enquiries to the appellant in the form of show cause notice. However, the appellant has failed to satisfactorily prove the genuineness of transactions before the A.O. During the appellate proceedings as well the appellant has not bothered to attend and defend its own grounds of appeal and thus ld. CIT(A) dismissed the ground of appeal.

4. We have gone through the relevant record and impugned order. Since assessee has not appeared before us and revenue has taken action on the basis of search conducted by the revenue and thereafter independent investigation was also made by the ld. A.O. from three creditors namely Shri Shailesh Patel, Shri Jitendra B. Chavda and Shri A.A. Patel. They could not produce any bills in support of purchases made by the appellant.
5. It is observed that ld. A.O. has made an addition of Rs. 1,26,77,000/- u/s. 40A(3) of the Act. According to the A.O. appellant has failed to furnish any proof with regard to genuineness of the transactions amounting to Rs. 1,26,77,000/- and A.O. had that appellant has inflated purchases in the items of trading business and thus made the addition of bogus purchases to the total income of the appellant. It is seen that the nature of business of appellant as

trading of Iron and Steel and it is clear from the assessment order that appellant was not the end user of the purchases made from the bogus billers. Finally ld. A.O. made addition of Rs. 1,26,77,000/- for all inflated purchase. Thereafter in appeal ld. CIT(A) relying on the judgment of N.K. Proteins Ltd. restricted the addition to the extent of Rs. 31,69,250/-.

6. We have gone through the relevant record and impugned order. In the case of N.K Proteins Ltd. (2004) 4 SOT 479 ITAT, Ahmedabad has held and in such cases, disallowance of 25% of total amount of bogus purchases can meet the end of justice and no separate addition was required in respect of peak credit in the account. Therefore, in our considered opinion, ld. CIT(A) has passed detailed and reasoned order and same does not require any kind of interference at our end.
7. Now we come to ground no. 4 for charging of interest u/s. 234A, 234B and 234C of the Act, same are mandatory and consequential, so this ground does not require any interference at our end.
8. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in Open Court on	25 - 03- 2019
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Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER **True Copy**
Ahmedabad: Dated 25/03/2019

Sd/-

(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.