

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.8064/Del./2018
Assessment Year 2008-2009

Shri Radhey Shyam M/s. Radhey Shyam & Co., 5645, Basti Harphool Singh, Sadar Bazar, Delhi PIN 110 006. PAN ABHPS9513Q	vs.,	The Income Tax Officer, Ward-63(3), New Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri Ved Jain, C.A.
For Revenue :	Shri V.R. Sonbhadra, Sr.DR

Date of Hearing :	06.06.2019
Date of Pronouncement :	06.06.2019

ORDER

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-20, New Delhi, Dated 19.11.2018, for the A.Y. 2008-2009, challenging the initiation of re-assessment proceedings under section 147/148 of the I.T. Act, 1961 and addition of Rs.4,65,888/- being the purchase from M/s. Vishnu Trading Co.

2. In this case, the assessee filed return of income declaring income of Rs.1,36,320/-. An information was

received from ACIT, Central Circle-10, Jhandewalan Extension, New Delhi forwarded through CIT, Central-II, New Delhi and the CCIT, Delhi-I, New Delhi respectively wherein the list of parties to whom the bogus purchases / accommodation entries provided by Shri Rakesh Gupta, Shri Vishesh Gupta, Shri Navneet Jain and Shri Vaibhav Jain was appearing. The A.O, therefore, noted that there is an escapement of income of Rs.4,65,888/- in the case of the assessee. The A.O. held that purchases of Rs.4,65,888/- made from M/s. Vishu Trading Co. is bogus purchases obtained by assessee and addition of the same sum was made. The Ld. CIT(A) dismissed the appeal of assessee.

3. Learned Counsel for the Assessee at the outset submitted that in preceding A.Ys. 2006-2007 and 2007-2008, the ITAT decided an identical issue in respect of same purchases made from the same parties and quashed the reopening of the assessment as well as deleted the addition. Copy of the Orders are filed on record which are as under :

- (i) Order of ITAT, SMC-1, Delhi Bench in the case of Radhey Shyam & Co., Delhi vs. ITO, Ward-39(3),

New Delhi in ITA.No.1429/Del./2015, A.Y. 2006-2007, Dated 30.11.2015.

2. Order of ITAT, SMC, Delhi Bench in the case of Radhey Shyam Prop. M/s. Radhey Shyam & Co., Delhi vs. ITO, Ward-63(3), New Delhi in ITA.No.7387/Del./2017, A.Y. 2007-2008, Dated 09.07.2018.

3.1. In A.Y. 2007-2008, the Tribunal followed the earlier Order of the Tribunal for the A.Y. 2006-2007 9supra) and in paras 6 and 7, the Tribunal held as under :

“6. After considering the rival submissions, I am of the view that the issue is covered in favour of the assessee by the Order of the Tribunal in the case of same assessee for preceding A.Y. 2006-2007 (supra). The Order of the Tribunal is reproduced above as well as reasons for reopening of the assessment for assessment year under appeal are also reproduced above. In the reasons recorded for A.Y. 2006-2007 the same letter received by the A.O. from the Income Tax

Department are referred which are same as have been referred in the reasons for A.Y. 2007-2008. The persons are same through whom the accommodation entries of bogus purchases have been provided in A.Y. 2006-2007 as well as in A.Y. 2007-2008 in appeal. Therefore, facts are same and identical. Therefore, the Ld. CIT(A) is bound to follow the Order of the Tribunal for preceding A.Y. 2006-2007 to quash reopening of the assessment as well as to delete the addition on merit. Both the issues are, therefore, covered by the Order of the ITAT, Delhi Bench in assessee's own case for A.Y. 2006-2007 (supra). Following the same, I set aside the orders of the authorities below and quash the reopening of the assessment under section 148 of the I.T. Act as well as delete the addition on merit.

7. *In the result, appeal of assessee is allowed."*

3.2. He has, therefore, submitted that issue is covered by the above Order of the Tribunal.

4. The Ld. D.R. did not dispute the same.

5. After considering the submissions of both the parties, I am of the view that the issue is covered in favour of the assessee by the Orders of the Tribunal in the case of the same assessee for A.Ys. 2006-2007 and 2007-2008 (supra). Following the same, I set aside the Orders of the authorities below and quash the reopening of the assessment and delete the addition on merit.

6. In the result, appeal of Assessee allowed.

Order pronounced in the open Court.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 06th June, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "SMC" Bench
6.	Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches : Delhi.