

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND  
SHRI RAM LAL NEGI, JUDICIAL MEMBER**

**ITA No.249/M/2018  
Assessment Year: 2014-15**

M/s. Shah Technical Consultants Pvt. Ltd., 407, Raheja Centre, Free Press Journal Marg, Mumbai - 400 021 <b>PAN: AADCS4968D</b>	Vs.	ACIT 2(3)(2), Room No.552, 5 <sup>th</sup> Floor, Aayakar Bhavan, M.K. Road, Mumbai - 400020
(Appellant)		(Respondent)

**Present for:**

Assessee by : Dr. K. Shivaram, A.R.  
Revenue by : Shri Chaudhary Arunkumar Singh, D.R.

Date of Hearing : 01.05.2019

Date of Pronouncement : 21.05.2019

**ORDER**

**Per Rajesh Kumar, Accountant Member:**

The present appeal has been preferred by the assessee against the order dated 23.11.2017 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2014-15.

2. The only issue raised by the assessee in the various grounds of appeal is against the confirmation of disallowance of entire printing and stationery expenses of Rs.1,47,55,602/- by Ld. CIT(A) as made by the AO on account of the said purchases being bogus and unverified.

3. The facts in brief are that the assessee filed the return of income 22.11.2014 declaring income of Rs.16,83,57,630/-

under the normal provisions of the Act and Rs.10,99,79,430/- under section 115JB of the Act. The case of the assessee was selected for scrutiny and during the course of assessment proceedings, the AO observed that assessee has debited a sum of Rs.2,24,22,076/- under the head printing and stationery vis-à-vis Rs.76,69,896/- in the preceding previous year thereby registering an abnormal increase of 192% under this head while the turnover of the assessee registered an increase of 3.66% only. Accordingly, the assessee was asked to furnish the details of printing and stationery along with necessary bills and vouchers. The assessee submitted before the AO that it has taken new assignments in the new sector of tourism wherein the assessee was awarded 4 projects in the state of Punjab, Himachal Pradesh, Uttarakhand and Tamil Nadu and the work involved is in the nature of architecture than engineering. Therefore work done by our company in this year included the architectural works which involved a lot of coloured printing and mapping works. The assessee submitted before the AO that the consumption of stationery is more in the new assignment and drawings and maps have to be prepared in coloured form and therefore the expenditure incurred during the year was several time high as compared to previous year by furnishing necessary supporting details. The AO after examining the same issued notices under section 133(6) to Axis Bank, Fort Branch and Canara Bank, Fort Branch for furnishing bank statements, account opening form and KYC details of all these parties. The AO found from these details that most of transactions were suspicious in nature because the address, name and contact details of the proprietor does not match with the assessee's

submission and the KYC forms produced by banks. The assessee was asked to produce the ledger account of the parties which was filed by the assessee on 15.11.2016. Summon under section 131 was issued to prop. of M/s. Nityanand Enterprises on 24.11.2016 and in response, Shri Sagar Namdeve Pagde, proprietor of M/s. Nityanand Enterprises appeared and his statement was recorded on the same date. In the statement of Shri Sagar Namdeve Pagde it was confirmed that he is not the proprietor of the said firm and also confirmed that he has not sold any printing and stationery items to M/s. Shah Technical Consultants Pvt. Ltd. besides confirming that the address and VAT registration on invoice produced by M/s. Shah Technical Consultants Pvt. Ltd. is his home address and the phone number also not belonging to him and said person is driver by profession. Similarly, summon was issued to M/s. Sanket Enterprises on 24.11.2016 and he also denied of having any transaction with the assessee. Similarly, summon was issued to proprietor of M/s. Riddhi Enterprises on 25.11.2016 and the status was same as in the case of other two parties. Finally, the AO added the amount to the income of the assessee on the ground that assessee has no satisfactory explanation for the said expenses incurred and the genuineness and correctness of the expenditure was not proved by framing assessment under section 143(3) of the Act dated 30.12.2016.

4. The Ld. CIT(A) dismissed the appeal of the assessee by holding that AO has conducted a detailed enquiries and it was found that assessee has not purchased any material of printing and stationery from these parties of Rs.1,47,55,602/- as has been stated by the assessee.

5. The Ld. A.R. vehemently submitted before us that the assessee has diversified and expanded its business by undertaking the architectural work during the year while the assessee was doing only engineering work traditionally. The Ld. A.R. submitted that for the purpose of architectural works, maps and drawings have to be prepared in colour printing and so many sets are to be prepared which involved huge printing cost following awarding of contracts in four states Punjab, Himachal Pradesh, Uttarakhand and Tamil Nadu. The Ld. A.R. submitted that engineering works, the reports and drawings are very simple mostly in black and white whereas the reports in architectural works are more complicated and expensive also. The Ld. A.R. submitted that though the assessee has produced the bills, vouchers, payment details etc. coupled with the documents pertaining to four projects in 4 states before the authorities below which itself justifies the consumption of these material in the business of the assessee. The Ld. A.R. also submitted that in addition to the new architectural work the assessee has also completed the major projects namely Kerala Water Supply Project, The Indore Water Supply Project, Jammu & Kashmir Water & Sewerage Project and the Hogenekkal Water Supply Project during the year and handed over to the concerned authority and thus involved in huge expenditure of drawing ,copies, maps and others back up records etc. The Ld. A.R. submitted that there has been increase of 25% in the turnover during the year. The Ld. A.R. submitted that though the assessee could not prove the evidences to the satisfaction of Revenue Authorities as the assessee was dealing and procuring material through a particular person and was not dealing

directly with any suppliers which is the practice prevalent in the industry and it is also very common that such type of people arrange material from various sources while the bills were issued of different persons. The Ld. A.R. therefore submitted that the assessee's accounts were duly audited and there was no adverse comments reported by the auditors. The Ld. A.R. submitted that one of the directors of the assessee company Shri Prashant Shah was looking after the administration of the company and he has to deal with these matters of supply of stationery with Mr. Darmesh Shah who used to arrange bulk quantity of printing and stationery from M/s. Riddhi Enterprises. The Ld. A.R. submitted that M/s. Riddhi Enterprises used to arrange the goods from M/s. Sanket Enterprises and M/s. Nityanand Enterprises. Thus Shri Prashant Shah is not having any personal knowledge of the proprietor of M/s. Riddhi Enterprises, M/s. Sanket Enterprises and M/s. Nityanand Enterprises. The Ld. A.R. reiterated that assessee has made payments through banking channel as provided by Mr. Darmesh Shah and the details of goods received and utilised for in the architecture work were shown in the stock register. The invoices of the three suppliers contained VAT Number, TIN number and PAN number also. Finally, the Ld. A.R. prayed before the Bench that the consumption of material is not in doubt so the order passed by Ld. CIT(A) is bad in law as the 100% disallowance of purchases could not be made. The Ld. A.R. prayed before the Bench that a reasonable percentage may kindly be disallowed in order to tax the savings which the assessee may have made from non payment of VAT and other incidental savings made by the assessee. Moreover, the Ld. A.R.

submitted that books of accounts were not rejected and sales were accepted and thus the entire purchases could not be disallowed and the order of Ld. CIT(A) deserved to be quashed. The Ld. A.R. relied on a series of decisions in support of his argument which are as under:

1. Babulal C. Borana vs. ITO (2006) 282 ITR 251 (Bom.) CIT vs.
2. CIT vs. Nikunj Exim Enterprises (P.) Ltd. (2015) 372 ITR 619 (Bom.-HC)
3. CIT vs. Smt. Anju Jindal (2016) 387 ITR 418 (P&H) High Court.

6. The Ld. D.R., on the other hand, relied heavily on the order of authorities below by submitting that the genuineness of the purchase of material was in doubt as all the parties have denied to have supplied such materials to the assessee and therefore it is a clear cut case of sham transactions and thus the order of Ld. CIT(A) may kindly be affirmed.

7. After hearing both the parties and perusing the material on record including the impugned order, we observe that undisputedly the assessee has made substantial purchases of printing and stationery from three parties namely M/s. Riddhi Enterprises Rs.93,51,632/-, M/s. Sanket Enterprises Rs.32,81,534/- and M/s. Nityanand Enterprises Rs.21,22,436/- aggregating to Rs. Rs.1,47,55,602/-. All these parties were paid through RTGS. This is also true that assessee has entered into a new venture in architectural field and have obtained 4 projects in the state of Punjab, Himachal Pradesh, Uttarakhand and Tamil Nadu. The assessee has also completed four major projects namely Kerala Water Supply Project, The Indore Water Supply Project, Jammu & Kashmir Water & Sewerage Project

and the Hogenekkal Water Supply Project during the year. The Ld. A.R. submitted before us that it is only due to this new line of business the assessee has to incur the huge expenditure on printing and stationery which is comparatively very costly as the assessee has to prepare maps and drawing in the colour format with multiple copies whereas in the existing line of business which is engineering which entails relatively cheaper printing cost . It is also fact that in this case the books of accounts have not been rejected by the AO. Moreover, the consumption of printing material is also not in doubt as the assessee has executed various projects during the year. Under these facts, the possible presumption is that the assessee might have procured the material from different sources may be grey market. Thus to disallow the entire purchases on the ground of being non genuine and non proved is not correct. The assessee has maintained stock records and entered all the receipt and consumption of materials therein. Therefore, we are not in agreement with the conclusion drawn by the Ld. CIT(A) that 100% addition account of the alleged purchases should be made. In our opinion it would be reasonable if some percentage of these purchases is added to the income of the assessee in order to bring to tax the various savings which the assessee may have made by making purchases from the grey market. Considering the facts and circumstances of the case, we are of the view that it would be appropriate if 15% of the total purchases are disallowed and brought to tax. Accordingly, we set aside the order of Ld. CIT(A) and direct the AO to make addition at 15% of the total alleged purchases.

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

**Order pronounced in the open court on 21.05.2019.**

**Sd/-  
(Ram Lal Negi)  
JUDICIAL MEMBER**

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

Mumbai, Dated: 21.05.2019.

\* Kishore, Sr. P.S.

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

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By Order

Dy/Asstt. Registrar, ITAT, Mumbai.