



ITA No.5955/Mum/2017
M/s. ATC India Tower Corporation Private Limited
Assessment Year-2008-09

आयकर अपीलीय अधिकरण "ए" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI

माननीय श्री शक्तिजीत दे, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI SAKTIJIT DEY, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपील सं./ I.T.A. No.5955/Mum/2017
(निर्धारण वर्ष / Assessment Year: 2008-09)

DCIT-9(1)(2) Room No.260-A, 2 nd floor Aaykar Bhavan, M.K. Road Mumbai-400 020	बनाम/ Vs.	M/s. ATC India Tower Corporation Pvt. Ltd. [formerly known as Xcel Telecom Pvt. Ltd.] 37/38, L.K. Arcade, Marol Naka Marol, Andheri (E) Mumbai-400 059.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAJCS-7669-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Revenue by	:	Sh. Anadi Varma – Ld. CIT-DR
Assessee by	:	Sh. Satyen Sethi - Ld.AR

सुनवाईकीतारीख/ Date of Hearing	:	11/04/2019
घोषणाकीतारीख / Date of Pronouncement	:	03/07/2019

आदेश / O R D E R

Per Manoj Kumar Aggarwal (Accountant Member): -

1.1 Aforesaid appeal by revenue for Assessment Year [AY] 2008-09 contest the order of Ld. Commissioner of Income-Tax (Appeals)-16,



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Mumbai [CIT(A)], *Appeal No. CIT(A)-16/IT-602/DCIT-9(1)(2)/2015-16* dated 27/06/2017 on following Grounds of appeal: -

1. *Whether on the facts and circumstances of the case, the order of the Ld. CIT(A) has erred in treating the purchases with M/s Aster infrastructure P. Ltd. and R.N. Infra Communication Pvt. Ltd. as genuine, when these vendors failed to comply with the notices issued u/s 133(6) of the LT. Act.*
2. *Whether on the facts and circumstances of the case, the Ld. CIT(A) has erred in treating the purchases with M/s Aster infrastructure Pvt. Ltd. and R.N. Infra Communication Pvt. Ltd. as genuine, when the assessee failed to produce these vendors for conformation when asked for by the assessing officers during the assessment proceedings, meaning thereby that the assessee failed to discharge the onus of proving the transactions with the said vendors as genuine.*
3. *The appellant prays that the order of the CIT(A) on the above ground above set aside and that of the A.O. be restored."*

1.2 This is second round of appeal before Tribunal since the matter in the first round was set-aside to the file of Ld.AO for re-adjudication with certain directions vide *ITA No.4060/Mum/2012 order dated 19/12/2014*. The directions of the Tribunal have already been extracted in the impugned order at *para-6*, the perusal of which reveal that since Ld. first appellate authority refused to admit the additional evidences filed by the assessee during appellate proceedings, the Tribunal set aside the matter to the file of Ld. AO with a direction to decide the issue afresh after admitting the additional evidences filed by the assessee.

1.3 Brief background is that the assessee being *resident corporate assessee* was stated to be engaged in providing *passive infrastructure services* to mobile service providers and other licensed telecom operators. *Passive infrastructure* is nothing but vertical towers with equipment such as antennas, duplexers, transceivers etc. Towers could be ground based or roof based.



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1.4 The return of income was filed by the assessee on 30/09/2009 declaring loss of Rs.29.76 Crores which was later on revised on 22/03/2010 to Rs.26.82 Crores. The loss was finally assessed u/s 143(3) on 29/12/2010 at Rs.25.28 Crores. However, subsequently the case was reopened and an assessment was framed u/s 143(3) read with Section 147 on 25/03/2013 wherein the loss was reduced to Rs.15.22 Crores. In the re-assessment proceedings, the assessee was saddled with disallowance of Rs.10.30 Crores on account of purchases made from certain entities as per following details: -

No.	Name of the Party	Amount (Rs.)
1.	Aster (Aster Infrastructure Pvt. Ltd. & Aster Teleservices Pvt. Ltd.)	6,23,80,569/-
2.	R.N.Infra Communications Pvt. Ltd.	4,06,68,492/-
	Total	10,30,49,061/-

Since the expenditure was capitalized in the books of accounts, the depreciation claimed against the same @15% amounting to Rs.1.54 Crores was disallowed whereas the balance Rs.8.75 Crores was reduced from *written down value [WDV]* of the fixed assets. The assessee contested the stand of Ld. AO before Ld. first appellate authority on the strength of additional evidences to substantiate the purchases. However, the plea to admit additional evidences was rejected and therefore, the matter was further agitated before this Tribunal wherein the matter was remanded back to the file of Ld. AO with certain directions as enumerated by us in preceding *para 1.2*.



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2. The set-aside proceedings pursuant to the directions of the Tribunal got culminated on 29/01/2016 vide order passed by Ld. AO u/s 143(3) *read with Section 254* of the Act. During proceedings, the assessee, vide letter dated 11/09/2015, submitted copies of purchase invoices, copies of purchase orders, material receipt notes and copies of bank statements to substantiate the purchases. Notices were sent u/s 133(6) to the aforesaid suppliers at the address provided by the assessee to confirm the stated transactions along with directions to file requisite information / details / documents. Although, the notices were duly served on the suppliers, however no submission was received from any of the said parties. Accordingly, the assessee was show-caused to produce the suppliers or to file fresh confirmation from these parties. However, the assessee failed to do so which led the Ld. AO to treat the aforesaid purchases as *bogus purchases* and accordingly, the depreciation claimed against the purchases amounting to Rs.1.54 Crores was disallowed whereas the balance amount of Rs.8.75 crores was reduced from *WDV* of fixed assets as done in the original re-assessment proceedings.

3.1 Aggrieved, the assessee agitated the same with success before Ld. Ld. CIT(A) vide impugned order dated 27/06/2017 wherein the assessee defended the purchases on the strength of following documents: -

- (i) Confirmation of Aster Infrastructure Pvt. Ltd. and reconciliation thereto
- (ii) Confirmation of Aster Teleservices Pvt. Ltd. and reconciliation thereto
- (iii) Confirmation of R.N.Infra and reconciliation thereto
- (iv) Copies of sample invoices raised by Aster Infrastructure Pvt. Ltd. providing services of survey site survey, soil testing, design & drawing, liasioning etc.
- (v) Copies of sample invoices raised by Aster Teleservices Pvt. Ltd. on account of supply of material & services



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- (vi) *Copies of sample invoices raised by R.N.Infra on account of supply of material & services*
- (vii) *Supporting evidences by way of excise invoice copy, lorry receipt, material receipt note, proof of insurance, purchase orders and details of payment in respect of five invoices*

The trail of material received by the assessee against sample invoice no. SHD18NV035 dated 26/11/2007 raised by *Aster Teleservices Pvt. Ltd.* was demonstrated on the strength of material purchase order, invoice-cum-challan, copy of invoice indicating supplier's CST, TIN & APGST No., excise invoice bearing transporter's details, evidence as to payment through banking channels etc. were furnished. Similar trail was demonstrated with respect to one sample invoice raised by *R.N. Infra Communication Pvt. Ltd.*

3.2 The attention was further drawn to the fact that the assessee made certain payments to these suppliers for erection of towers and to obtain services of technical nature viz. site survey, design, soil investigation etc. and made payment to these suppliers after deduction of Tax at source [TDS] u/s 194C as well u/s 194J.

3.3 The attention was also drawn to the fact that an addition of Rs.126.37 Crores was made in tower infrastructure and 610 new towers were erected during the year. Each of the tower was stated to bear unique ID, the existence of which was demonstrated on the strength of site ID etc. It was also submitted that the assessee earned lease rent of Rs.163.82 Crores and therefore, the purchases could not be doubted.



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3.4 The Income Tax Return Copy for AY 2008-09, VAT Return of Aster Teleservices Pvt. Ltd. was placed on record and it was emphasized that this entity declared income of Rs.89.68 Crores and paid tax of Rs.30.57 Crore. Copy of correspondence exchanged with *official liquidator* seeking copy of Income Tax and Sales Tax Return of *R.N. infrastructure Pvt. Ltd.* was also filed. The attention was also drawn to the fact the similar purchases made by assessee from these 3 entities in AY 2009-10 was accepted by the revenue and the same were not under doubt.

3.5 Reliance was placed on the decision of Hon'ble Bombay High Court rendered in *CIT Vs Nikuj Eximp Pvt. Ltd. [2015 372 ITR 619]* & *ITO Vs Vaman International Pvt Ltd [ITA No. 794/Mum/2015 dated 16/11/2016]* to submit that merely because the parties did not respond to the notices issued u/s 133(6), the purchases could not be treated as bogus specially when the assessee has brought on record substantial documentary evidences to establish the genuineness of the purchase transactions.

3.6 Finally, after careful consideration of assessee's submissions/ documentary evidences & factual matrix, Ld. first appellate authority concurred with assessee's stand and deleted the impugned additions by observing as under: -

21. I have carefully perused the assessment order of the AO and the submissions made by the AR in support of his arguments. After taking into consideration, the A.O's findings and the appellant's oral and written submissions made during the course of hearing as well as facts of the case, decision on various grounds are adjudicated as under:

22. Ground Nos. 1 to 4

22.1 Vide these grounds the appellant has agitated against disallowing deduction of Rs.1,54,57,360/- out of purchase of tower infrastructure. The appellant filed the return of income for A.Y.2008-09 on 30.09.2008 declaring a loss of Rs.29,76,99,510/-. Subsequently revised return was filed on 22.03.2010 declaring loss of



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Rs.26,82,78,992/- Assessment u/s.143(3) was completed on 29.12.2010 at a loss of Rs.25,28,21,632/- in which material purchased from Aster Infrastructure P. Ltd., Aster Teleservices P. Ltd. and RN Infra Communication P. Ltd. was treated as bogus. Thereafter the case was reopened u/s.147 of the Act and assessment u/s.143(3) r.w.s. 147 was passed on 25.03.2013 assessing the total income of the appellant at a loss of Rs.15,22,08,910/-. Being aggrieved the appellant preferred an appeal before the Id.CIT(A)-16. The Id.CIT(A)-16 vide order dated 15.03.2012 dismissed the appeal of the appellant and confirmed the addition made by the A.O. Being aggrieved by the Id.CIT(A)'s order, the appellant went in appeal before the Hon'ble ITAT. After considering various evidences filed by the appellant, the Hon'ble ITAT vide order dated 19.12.2014 set aside the finding of the appellant and estimated the file to the A.O. Since the Hon'ble ITAT has given directions to admit additional evidences, therefore the evidences furnished by the appellant before Hon'ble ITAT are considered while deciding appeal of the appellant company.

22.2 During the course of assessment proceedings u/s.143(3) r.w.s. 254 the Id.A.O. asked the appellant to furnish the present address of the parties from which alleged purchases were made for further verification. The latest addresses were provided by the appellant. Accordingly, notices u/s.133(6) were issued to Aster Infrastructure P. Ltd. and R.N Infra Communication P. Ltd. which were duly served on the addresses provided by the appellant. No response to the notices issued u/s.133(6) were received, therefore, the Id.A.O. asked the appellant vide letter dated 08.01.2016 with a request to produce the above said 2 parties for verification or to file confirmation from these 2 parties. The appellant did not comply with the directions issued by the Id.A.O. Therefore, the appellant company's claims of purchases purported to have been made from Aster Infrastructure P. Ltd. and RN Infra Communication P. Ltd. amounting to Rs.10,30,49,061/-were rejected and same were considered as bogus purchases and consequently an unexplained expenditure on the part of the appellant. Since the expenditure claimed was capital in nature, therefore, the Id.A.O. disallowed the depreciation @ 15% amounting to Rs.1,54,57,360/-.

22.3 While treating the purchases as bogus the Id.A.O. mentioned in the order that since no response was received u/s.133(6), therefore the appellant was requested to file confirmation from M/s. Aster Infrastructure P. Ltd. and RN Infra Communication P. Ltd. According to the A.O., no such confirmation was filed by the appellant. The appellant strongly refused the findings of the A.O. and submitted that vide its letter dated 12.08.2015 the appellant filed vendor reconciliation statement and vendor confirmation in respect of Aster Infrastructure P. Ltd., Aster Teleservices P.Ltd. and RN Infra Communication P. Ltd. Sample copies of invoices were also furnished before the A.O. The letter submitted by the appellant is placed at page 58 of the paper book which bears the stamp of the DCIT 9(1)(2) also.

22.4 During the course of assessment proceedings, confirmed copies of accounts of Aster Infrastructure P. Ltd. and RN Infra Communication P. Ltd. alongwith sample copies of invoices were furnished by the appellant. During the course of appellate proceedings, the following documents were produced:



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- (i) Confirmation of Aster Infrastructure Pvt. Ltd (earlier - Ascend Telecom Infrastructure Pvt Ltd) and reconciliation thereto;
- (ii) Confirmation of Aster Teleservices Pvt. Ltd (State-wise) and reconciliation thereto;
- (iii) Confirmation of RN Infra and reconciliation thereto;
- (iv) Copies of sample invoices raised by Aster Infrastructure Pvt. Ltd. providing services of site survey, soil testing, design & drawing, liasioning etc;
- (v) Copies of sample invoices raised by Aster Teleservices Pvt. Ltd of supply of angular tower material with foundation bolts', 'shelter material' and providing services of civil work, erection and painting;
- (vi) Copies of sample invoices raised by R.N. Infra of supply of angular tower material with foundation bolts', 'shelter material' and providing services of civil work, erection and painting;

(vii) By the letter dated 12.08.2015, supporting evidences by way of excise invoice copy, lorry receipt, material receipt note, proof of insurance, purchase order and detail of payment were furnished in respect of five invoices.

Copies of the same are placed on record. It was further submitted that on all material purchased excise duty was charged @16.4% and CST was also charged against 'C form, note of the appellant was furnished which is placed at page 262 which are paid through banking channels and necessary payments regarding mode of payments were also submitted. It was further contended that material purchased was used in constructing the towers and TDS u/s.194C was deducted in respect of erection of towers and for services of technical nature. It was contended that without purchase of basic material used in the tower no such structures can be erected. The appellant has not only erected the tower but subsequently gave the tower on lease. Income was continuously earned by the appellant. In respect of its claim appellant made following submissions:

(b) Addition of Rs.126,37,90,353/- (Rs.126.37 Cr - excluding addition of towers pursuant to acquisition of TICS Telecom Towers Pvt., Ltd.) was made to "tower , infrastructure". By incurring Rs.126.37 Cr., total of 610 towers were erected [416 ground based and 194 roof based].

(b) Details of towers erected were filed on 6.6.2017. It was explained that each tower site is linked to site ID, Oracle ID and has the name of anchor Telecom Company, who has taken the tower on lease. Details included RFIE date, which is the date on which the tower was ready for inspection / installation.

(c) Specimen RFI certificates correlating with Serial No. of towers constructed during the year were filed in respect of Serial No. 122, 126, 129, 243, 312, 314, 320, 322, 323, 325, 327, 329, 495, 505 6V 506.

22.5 Regarding noncompliance of notices u/s.133(6) by Aster Teleservices P. Ltd. it was submitted that the above-mentioned company went into liquidation and as a result its office was taken by the official liquidator. In support of the genuineness of Aster Teleservices P. Ltd. the appellant submitted the acknowledgement receipt of income tax return for A.Y.2008-09: It was further contended that for A.Y.2008-09 Aster Teleservices P. Ltd. it declared total income of Rs.89,68,66,830/- and it had paid taxes of Rs.30,57,52,014/-. In view of these financial results, the appellant claimed that Aster



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Teleservices P, Ltd. cannot be a hawala operator. It was further contended that transactions with Aster Infrastructure P. Ltd., Asther Teleservices P. Ltd. and RN Infra Communication P. Ltd. were also made in A.Y.2009-10 and these transactions were liable to excise duty, sales tax and service tax and TDS at applicable rates were deducted by the appellant.

22.6 The appellant has also brought to my notice that during the year appellant earned lease rent of Rs.1,63,82,64,191/-. The receipts were accepted by the department. It means that the existence of tower has never been disputed. In the absence of material purchased it was not possible to raise the towers. The appellant also produced copies of transportation bill.

22.7 I have considered various evidences produced by the appellant. All payments were made by cheque. The appellant produced copies of various invoices, bills of transportation evidences regarding utilization of material purchased in the erection of towers. The appellant has also disclosed the corresponding lease income from the tower erected. Without purchase of material it was not possible to erect towers and subsequent earning of lease income from such towers. The appellant also explained the reasons of noncompliance of notices u/s.133(6) because one of the company had gone into liquidation and it was taken over by official liquidators. The appellant also produced necessary evidences which prove that both the above-mentioned companies were existent companies filing their regular income tax return with huge payments of taxes. It is pertinent to note that transactions with Aster Infrastructure P. Ltd., Aster Teleservices P. Ltd. and RN Infra " Communication P. Ltd. were made in A.Y. 2009-10 and they were accepted. It is also important to mention that the appellant had paid all the taxes and TDS at applicable rates. The Id.A.O. had not disputed any of the evidences produced by the appellant. He has merely relied on the noncompliance of notices u/s.133(6). When the facts were brought into the notice of the appellant, they submitted copies of confirmation from Aster Infrastructure P. Ltd. and RN Infra Communication P. Ltd. during the course of assessment itself.

22.8 In support of its claim appellant placed reliance on judgement of CIT v. Nikunj Eximp Enterprises Pvt. Ltd. (2015) 372 ITR 619 (Bom) and ITO v. Vaman International P. Ltd. (ITA No.794/Mum/2015 dated 16.11.2016). The appellant produced various evidences which proves that purchases were not only made by the appellant company from Aster Infrastructure P. Ltd. and RN Infra Communication P. Ltd. but material purchased was also utilized for the construction of tower. The appellant also explained the reason of non-compliance of notice u/s.133(6). In view of various evidences produced by the appellant and judgements in the case of CIT v. Nikunj Eximp Enterprises Pvt. Ltd. and ITO v. Vaman International P. Ltd., the disallowance of depreciation made by the A.O. is deleted and the appeal of the appellant is allowed.

Aggrieved, the revenue is in further appeal before us.

4. The Ld. CIT-DR, *Shri Anadi Verma* pointed out that critical documentary evidence viz. notices sent u/s 133(6) to the concerned



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suppliers, even during *remand proceedings* were not responded to and the assessee could not produce any of the supplier to confirm the transactions which establishes that the purchases were not genuine. It has been submitted that the onus to prove the purchases beyond doubt remained undischarged by the assessee and Ld. first appellate authority, without making any further inquiries or verifying the documents, provided relief to the assessee which was not justified in the given circumstances. Reliance has been placed on following judicial pronouncements to support the submissions: -

No.	Title	Judicial Authority	Citation
1.	<i>CIT Vs Jansampark Advertising & Mkt. Pvt Ltd.</i>	<i>Hon'ble Delhi High Court</i>	<i>2015 376 ITR 373</i>
2.	<i>Indian Woollen Carpet Factory Vs. ITAT</i>	<i>Hon'ble Rajasthan High Court</i>	<i>2002 260 ITR 658</i>

5. The aforesaid submissions were controverted by Ld. Authorized Representative for Assessee [AR], *Shri Satyen Sethi* who submitted that plethora of documentary evidences were furnished by the assessee before lower authorities to substantiate the purchases. The attention has been drawn to the fact that Ld. AO, without considering the same with due application of mind, disallowed the purchases only on the ground that no response was received against notices sent u/s 133(6). Our attention has been drawn to the documents kept in the *paper-book* as submitted by the assessee in support of purchase transactions. The case laws being relied upon by the Ld. CIT-DR has been sought to be distinguished on facts.



Reliance has been placed on submissions made before Ld. first appellate authority.

6.1 We have carefully heard the rival submissions, perused relevant material on record including documents placed in the *paper-book* and judicial pronouncements as cited before us. The undisputed position that emerges is the fact the prime premise on which the additions have been made by Ld. AO is the fact that notices sent u/s 133(6) has not been responded to by any of the suppliers. We find that it is not the case that the notices have returned back unserved by the postal authorities but it is a fact that the notices were served upon the suppliers which establish that the parties were in existence at the given addresses. It is another fact that one of the entities namely *R.N. infrastructure P. Ltd.* was already under liquidation and taken over by official liquidator which is evident from assessee's communication to the official liquidator as placed on *page no. 347* of the *paper-book*. Another fact to be noted is that there was considerable time lag of more than 8 years between purchases made by the assessee and confirmation sought by the department and therefore there was every possibility that the notices may not be responded by the concerned suppliers.

6.2 As against the above, we find that the assessee had filed plethora of documents to substantiate the purchases, which have already been enumerated by us in *para 3.1* above. It is noted that the three suppliers under question were corporate entities who were duly registered under respective State Sales Tax / VAT, had registration under Excise Laws /



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Service Tax. The material was purchased by the assessee against *C Form*. The proof of insurance of the material was placed on record. The purchases were backed by excise invoices which carried transporter's details. The assessee demonstrated trail of purchased material on sample basis with respect to the suppliers. The assessee has obtained certain services from these entities and made the payment thereof after deduction of appropriate tax at source u/s 194 C / 194J. All the payments were through banking channels. The confirmation of account as well as reconciliation of balances was available on record. Further, similar purchases made by the assessee in subsequent AY 2009-10 has been accepted. The assessee erected approx. 610 new Towers during the year which was uniquely identifiable and the same could not have been achieved without actual purchase of the material. The assessee has placed on record the Income Tax Return as well as VAT returns for impugned AY 2008-09 in respect of *Aster Teleservices Pvt. Ltd.* which demonstrate that the entity was very well in existence. The assessee also made an effort to procure similar documents from official liquidator of another entity namely *R.N. Infrastructure Pvt. Ltd.* Nothing on record suggest that the above entities, in any manner, have been declared as *Hawala / Bogus* dealers by any of the authorities. The totality of all these facts demonstrate that the assessee was able to produce overwhelming documents to substantiate the purchase as pitied against the revenue's stand that notices u/s 133(6) were not responded to. However, we find that even the response to notice u/s 133(6) was not within the control of the assessee and the same were to be replied to by the third-



party suppliers. The factual matrix as well as documentary evidences, in our opinion, was tilted more in favor of the assessee.

6.3 The Ld. CIT-DR has placed reliance on the decision of Hon'ble Delhi High Court rendered in *CIT Vs Jansampark Advertising & Mkt. Pvt Ltd. [supra]* to submit that it was incumbent on the part of Ld. first appellate authority so as to cause further inquiries / verifications in the matter and should have conclusively determine the issue under hand. However, we find that this was the second round of assessment proceedings and the supporting documentary evidences were duly filed by the assessee before Ld. AO. These evidences were overlooked and much stress was placed on the fact that notices u/s 133(6) were not responded to, which was not in assessee's control. The issue, in our opinion, was clinched by Ld. first appellate authority in proper perspective. The case law of Hon'ble Rajasthan High Court pertains to addition u/s 68 wherein the assessee failed to prove the genuineness of the transactions. The same is not the case here and hence, the same, in our opinion, is distinguishable.

6.4 Further, we find that similar factual matrix has been addressed by **Hon'ble Bombay High Court in *CIT Vs. Nikunj Eximp Enterprises Pvt. Ltd. [372 ITR 619]*** wherein Hon'ble Court has held as under: -

7. We have considered the submission on behalf of the revenue. However, from the order of the Tribunal dated 30-04-2010, we find that the Tribunal has deleted the additions on account of bogus purchases not only on the basis of stock statement i.e. reconciliation statement, but also in view of the other facts. The Tribunal records that the Books of Accounts of the respondent-assessee have not been rejected. Similarly, the sales have not been doubted and it is an admitted position that substantial amount of sales have been made to the Government Department i.e. Defence Research and Development Laboratory, Hyderabad. Further, there were confirmation letters filed by the suppliers, copies of invoices for purchases as well as copies of bank statement all of which would indicate that the purchases were infact made. In our view, merely because the



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suppliers have not appeared before the Assessing Officer or the CIT(A), one cannot conclude that the purchases were not made by the respondent-assessee. The Assessing Officer as well as CIT(A) have disallowed the deduction of Rs.1.33 crores on account of purchases merely on the basis of suspicion because the sellers and the canvassing agents have not been produced before them. We find that the order of the Tribunal is well a reasoned order taking into account all the facts before concluding that the purchases of Rs.1.33 crores was not bogus. No fault can be found with the order dated 30-04-2010 of the Tribunal.

6.5 Considering the totality of facts, we find no reason to interfere with the impugned order.

7. Resultantly, the appeal stands dismissed.

Order pronounced in the open court on 03rd July, 2019.

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 03/07/2019
Sr.PS:-Jaisy Varghese

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.