

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
AHMEDABAD BENCH 'A', AHMEDABAD**

**[Coram: Justice P P Bhatt, President, and Pramod Kumar, Vice President]**

ITA No. 131/Ahd/2016  
Assessment year: - 2010-11

**Preksha Aluminum** .....**Appellant**  
3, Punch Vila, Opp. Ladli Party Plot,  
Bhuyangdev Char Rasta,  
Memnagar, Ahmedabad-380013  
[PAN : AAKFP 0962 G]

**Vs**

**Income Tax Officer** .....**Respondent**  
Ward 6(2), Ahmedabad

**Appearances by**

**Hiren Trivedi, for the appellant**  
**James Kurian, for the respondent**

Date of concluding the hearing : 02.04.2019  
Date of pronouncement : 25.06.2019

**O R D E R**

**Per Pramod Kumar, Vice President:**

1. By way of this appeal, the assessee appellant has challenged the correctness of the order dated 16<sup>th</sup> November 2015 passed by the by the Id. CIT(A)-13, Ahmedabad in the matter of assessment under section 143(3) of the Income-tax Act, 1961, for the assessment year 2010-11.

2. Ground No. 1 is general in nature and does not call for any specific adjudication by us.

3. In ground no. 2, the assessee has raised following grievance:-

*"2. On the facts and circumstances of the case, the learned CIT(A) has erred in confirming the addition of Rs.22,77,611/- being 20% of the unverifiable purchases of Rs.1,13,88,057/- after rejecting the books of account of the appellant."*

4. Briefly stated, the relevant material facts are like this. The assessee is engaged in the business of trading in aluminium sections, hardware, thermocol and other products. During the course of assessment proceedings, the Assessing Officer requisitioned the books of accounts and vouchers for verification of purchases. As against the purchases of Rs.2,22,46,591/-, the assessee furnished details only in respect of purchases of Rs.1,08,58,534/-. When the Assessing Officer requisitioned the details of the remaining purchases, the assessee did not have anything to say. It was in this backdrop that the Assessing Officer disallowed 20% of the unverifiable purchases of Rs.1,13,88,057/-. The disallowance thus came to Rs.22,77,611/-. Aggrieved, the assessee carried the matter in appeal before the learned CIT(A) but without any success. During the course of appellate proceedings before the learned CIT(A), the appellant had furnished additional evidences in relation to unverifiable purchases which were duly forwarded to the Assessing Officer for remand report. In the remand report, the Assessing Officer stated that the assessee has furnished copies of certain details, but the related original bills/vouchers and the books of accounts have not produced even at the remand stage. He thus urges the CIT(A) to confirm the disallowance made earlier. While confirming the action of Assessing Officer, the CIT(A), *inter alia*, observed as follows:-

*"5. I have perused the remand report and the comments thereafter by the appellant. I find that even during the remand proceedings the difference between proceedings the difference between the purchases as per the purchase ledger vis-a-vis purchases in the P&L A/c have not been satisfactorily reconciled before the A.O. The appellant's contention that this result is as a result of VAT, however, is also devoid of merit as the verification by the A.O reveal that copies of VAT return under Gujarat Value Added Tax Act, 2003 are unauthenticated i.e. without date, place and signature. The A.O has also pointed out that only sample copies of 55 purchase bills were produced. The A.O has emphasized that no original bills or vouchers with the relevant books of accounts were produced even during the remand proceedings. The appellant, however, has devoted bulk of its rebuttal comments on its inability to produce such details before the A.O either because of pre-occupation or because of illness of his Authorised Representative. The appellant, on merit has reiterated that copy of purchase register, copies of VAT return, copies of purchase bills were also filed before me vide Armexure-1, IV, A & B respectively. I have perused die remand report and the rebuttal comments and I find that there is a merit in the observation made by the A.O, The appellant has not satisfactorily reconciled the difference in the purchase figure evident from, the books of accounts vis-a-vis purchased with the P & L A/c. The original bills, purchase vouchers from the books of accounts has not been produced before the A.O for primary verification, accordingly, in my view the action of A.O in disallowing purchases on estimate at the rate of 20% of unverifiable purchases is sustainable. The addition of Rs.22,77,611/- therefore, is confirmed. Ground no. 1 is dismissed."*

5. The assessee is not satisfied and is in appeal before us.

6. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position.

7. We find that it is an undisputed position that the assessee has not produced the original bills, purchase vouchers and the books of accounts before the Assessing Officer even at the remand stage proceedings. We have also noted that all the purchase bills were not produced before the Assessing Officer and only copies of some of the invoices were provided to the Assessing Officer at the remand stage. In these circumstances, in our considered view, the ad-hoc disallowance was indeed justified but having regard to the facts and circumstances of the case, we scale it down to 10%.

8. Ground no.2 is thus partly allowed.

9. In ground no.3, assessee has raised following grievance:-

*“3. On the facts and circumstances of the case, the learned CIT(A) has erred in confirming the addition of Rs.2,01,402/- made u/s 40(1)(ia) for not deducting tax anodizing charges.”*

10. So far as this grievance of the assessee is concerned, it is noted that the assessee has shown anodizing charges of Rs. 2,01,402/- but no details of tax deduction at source were filed. It was in this backdrop that the Assessing Officer disallowed the expenses under section 40(a)(ia) of the Act for want of applicable deduction of tax at source. Aggrieved, the assessee carried the matter in appeal before the learned CIT(A). Learned CIT(A) confirmed the action so taken by the Assessing Officer. The assessee is aggrieved and is in appeal before us.

11. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position.

12. We find that the assessee vide letter dated 20.06.2013 had given copies of the bills of anodizing charges, and, as evident from the bills and ledger account, a copy of which is placed before us, the tax withholding obligations did not apply in respect of these payments. None of the bills exceed the amount of Rs.20,000/-. The very foundation of disallowance was thus vitiated in law. We, therefore, uphold the plea of the assessee and delete the impugned disallowance of Rs.2,01,402/-.

13. Ground no.3 is thus allowed.

14. In ground no.4, assessee has raised following grievance:-

*“4. On the facts and circumstances of the case, the learned CIT(A) has erred in confirming the addition of Rs.43,950/- being 20% of the transportation and freight expenditure.”*

15. So far as this grievance is concerned, the disallowance was made by the Assessing Officer for the short reason that no proof of the transportation and freight expenses was given, and, in the absence of these details, 20% disallowance was made on ad-hoc basis. Thus, out of total expenditure of Rs.2,19,752/- on account of transportation and freight expenses, an amount of Rs.43,950/- being 20% of the total expenses was disallowed. Aggrieved, the assessee carried the matter in appeal before the learned CIT(A) but without any success. The assessee is not satisfied and is in further appeal before us.

16. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position.

17. We find that the overrunning of majority of these expenses constitute small cash payments to the labour, rickshaw, tempo etc and are of a small amount such as below Rs.1000/-. Considering the nature of these expenses, in most of the cases, it is not really possible to obtain proper vouchers for such payments. In any case, the details of these expenses were before the Assessing Officer. Therefore, the ad-hoc disallowance is really not called for. In view of the above discussions, as also bearing in mind entirety of the case, we deem it fit and proper to delete the disallowance of Rs.43,950/-.

18. Ground no. 4 is thus allowed.

19. Ground No. 5 does not require any specific adjudication and is dismissed as such.

20. In the result, the appeal is partly allowed in the terms indicated above. Pronounced in the open court today on the 25<sup>th</sup> day of June, 2019.

Sd/-

**Justice P P Bhatt**  
(President)

**Ahmedabad, dated the 25<sup>th</sup> day of June, 2019**

*bt*

Copies to: (1) The appellant (2) The respondent  
(3) CIT (4) CIT(A)  
(5) DR (6) Guard File

By order etc

True Copy

Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad

