

THE INCOME TAX APPELLATE TRIBUNAL  
"D" Bench, Mumbai  
Before Shri Shamim Yahya (AM) & Shri Ravish Sood (JM)

I.T.A. No. 1481/Mum/2018 (Assessment Year 2009-10)

M/s. Directi Web Services Private Limited GJ-6, Seepz-SEZ, Andheri East, Mumbai-400 096.  PAN : AACCG1894K (Appellant)	Vs.	ITO-9(3)(1) Mumbai.  (Respondent)
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Assessee by	Ms. Varsha Nanwani
Department by	Shri D.G. Pansari
Date of Hearing	27.6.2019
Date of Pronouncement	12.9.2019

ORDER

Per Shamim Yahya (AM) :-

This appeal by the assessee is directed against the order of learned CIT(A) dated 27.10.2017 and pertains to A.Y. 2009-10.

2. This issue raised is that the authorities below have erred in reducing Rs. 41,10,193/- from the capital work-in-progress on account of bogus purchases.

3. At the outset we note that there is delay of 26 days in filing the appeal. Reasonable cause for the delay has been attributed at the firm of the consultant. Upon careful consideration, we condone the delay. In this case pursuant to information from the Sales Tax Department that the assessee has indulged into bogus purchases from certain parties, the assessment was reopened. In the assessment proceedings the Assessing Officer did not dispute the books of account. He also did not dispute the consumption. However, he took adverse inference from the sale tax department information. He did not

bother to issue notice to the said hawala dealers. He proceeded to reduce a sum of

Rs. 41,10,193/- which were said to have been purchased from the said hawala dealers from the capital work-in-progress.

4. Upon assessee's appeal learned CIT(A) did not apply any mind. He noted that Assessing Officer has disallowed the expenditure as revenue expenditure and he directed the Assessing Officer to reduce the sum involved from the capital work-in-progress. This learned CIT(A) did not even bother to read the assessment order from where he would have easily observed that, that is what exactly what the Assessing Officer had done.

5. Be as it may against the above order assessee is in appeal before us.

6. We have heard both the counsel and perused the records. We find that addition in this case has been done on the basis of information received from the sales tax Department that some of the parties from where the assessee had made the purchases are hawala dealers. No inquiry whatsoever has been done by the Assessing Officer on his own. No default has been found in the books of account. The Assessing Officer has not expressed any doubt about other workings of the company. The consumption has also been doubted. Learned CIT(A) without any application of mind has repeated the order of Assessing Officer.

7. In this view of the matter in our considered opinion the above addition is based upon surmise and conjecture and without cogent material. In this view of the matter in our considered opinion the reduction from work-in-progress deserves to be deleted. Accordingly, we set aside the orders of the authorities below and decide the issue in favour of the assessee.

8. In the result, this appeal filed by the assessee stands allowed.  
Order has been pronounced in the Court on 12.9.2019.

Sd/-  
(RAVISH SOOD)  
JUDICIAL MEMBER

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 12/9/2019

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS