

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

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND  
SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 4526/MUM/2018 (A.Y:2009-10)**

M/s. B4U Television Network India Ltd., Plot No. 114, Road No. 15 Next to SRL Ranbaxy, MIDC Andheri (E), Mumbai – 400 093  <b>PAN: AABCB1717B</b>	v.	Asst. Commissioner of Income Tax Central Circle – 47 Mumbai
<b>(Appellant)</b>		<b>(Respondent)</b>

**ITA NO. 4525/MUM/2018 (A.Y: 2011-12)**

M/s. B4U Television Network India Ltd., Plot No. 114, Road No. 15 Next to SRL Ranbaxy, MIDC Andheri (E), Mumbai – 400 093  <b>PAN: AABCB1717B</b>	v.	Asst. Commissioner of Income Tax Central Circle – 8(4) Mumbai
<b>(Appellant)</b>		<b>(Respondent)</b>

**Assessee by** : **Shri Sunil Nahta**  
**Department by** : **Ms. Kavita P.Kaushik**  
  
**Date of Hearing** : **16.10.2019**  
**Date of Pronouncement** : **10.01.2020**

**ORDER****PER C.N. PRASAD (JM)**

1. These two appeals are filed by the assessee against different orders of the Ld. Commissioner of Income-tax (Appeals) – 50, Mumbai dated 27.04.2018 for the A.Ys. 2009-10 and 2011-12.
2. In the appeal for the A.Y. 2009-10 assessee challenged the order of the Ld.CIT(A) in upholding the disallowance of purchases made from M/s. Mehul Traders and M/s. Rahul Traders.
3. Briefly stated the facts are that, in the course of the assessment proceedings Assessing Officer noticed that as per the information of investigation wing of the department M/s. Mehul Traders and M/s. Rahul Traders were providing accommodation entries and assessee is one of the beneficiary. Assessee was asked to furnish the details with regard to purchases made from M/s. Mehul Traders and M/s. Rahul Traders. Assessee submitted that it had purchased optical fiber cable for ₹.5,09,600/- from M/s. Mehul Traders and the same is capitalised in the books of accounts under the head “Furniture and Fixtures” and the Optical fiber cable was used for last mile connectivity between internet service provider and assessee’s office. It was also submitted that assessee claimed depreciation of ₹.25,480/- and therefore it was contended that transactions with M/s.Rahul Traders is not bogus.

4. In so far as the transaction with M/s. Rahul Traders are concerned it was submitted that assessee purchased electrical appliances/fittings for ₹.15,068/-. It was submitted that electrical appliances/fittings were used in its new office premises and the same were capitalised in the books of accounts under the head "Furniture and Fixtures" and claimed depreciation of ₹.741/-. Therefore, it was contended that the transaction with M/s. Rahul Traders are genuine.

5. The Assessing Officer to verify the genuineness of these details deputed Inspector to visit the premises of M/s. Mehul Traders and M/s.Rahul Traders as mentioned in the bills/invoices. The Inspector submitted his report on 19.03.2013 observing that both M/s. Mehul Traders and M/s. Rahul Traders could not be located and no business activities were carried on in the given address. It was reported by the Inspector that the address as mentioned in the bills of M/s. Mehul Traders is only a residential premises. Inspector in his report stated that the address on the invoices given by M/s. Rahul Traders is an industrial area and he could not found the address of the M/s. Rahul Traders. Thus, based on the report of the Inspector, Assessing Officer treated the purchases as not verifiable and therefore genuineness of the purchases could not be established. Assessing Officer by observing that no evidences regarding physical delivery of materials such as stock register

entry, delivery challans etc., have been produced by the assessee, he disallowed the purchases to the extent of ₹.5,20,033/- made from M/s.Mehul Traders and M/s. Rahul Traders.

6. On appeal the Ld. CIT(A) though accepted the contention of the Assessing Officer that the purchases were not genuine, the alternative submission of the assessee that since assessee has claimed only depreciation the entire purchases cannot be disallowed has been accepted and accordingly directed the Assessing Officer to sustain the disallowance of depreciation of ₹.26,221/- and deleted the rest of the addition/disallowance.

7. Before us, the Ld. Counsel for the assessee reiterated the submissions made before the lower authorities. Ld. DR vehemently supported the orders of the authorities below.

8. We have heard the rival submissions and perused the orders of the authorities below. On a perusal of the order of the Ld.CIT(A) we find that Ld. CIT(A) held that the genuineness of the purchases is not proved. However, entire purchases cannot be disallowed and only depreciation is to be disallowed as the assessee has capitalised the purchases in its books of accounts and claimed only depreciation observing as under: -

*“5.2. I have taken note of the fact that the A.O has for the verification of the genuineness of the purchases has deputed the*

*Inspector to conduct the enquiries and accordingly, the Inspector has visited the concerned premises. The Inspector in his report has categorically stated in respect of M/s Mehul Traders that there was no office premise and the address was of a residential premise and no business activity was carried on from the said premises. Further, in respect of M/s Rahul Traders, the Inspector Report has stated that the address of the office as mentioned in the bill could not be found. Neither during the course of the assessment proceedings nor during the appellate proceedings the Appellant has been able to rebut this factual report, which is fully against the Appellant.*

*5.3 Further, the A.O. has clearly noted in the assessment order that no evidence regarding the physical delivery of material, such as stock register entry, delivery challan etc. have been furnished by the appellant, to prove the genuineness of the impugned purchases.*

*5.4 I have also verified the details of M/s Mehul Traders & M/s Rahul Traders on the <https://mahavat.gov.in/>, which has been renamed as <https://mahagst.gov.in/> and found that both the parties are appearing in the list of "Suspicious Dealers", who have issued false bills without delivery of goods. The details contained on the said website of Maharashtra Government are extracted below:-*

<i>list of Suspicious Dealers who has issued false bills without delivery of goods.</i>		
<i>Disclaimer: If any dealer whose name is published has any grievances he should contact the Office of DC Vigilance at, A-1, 8th Floor, Old Bldg, Vikrikar Bhavan, Mazgaon, Mumbai-400010.</i>		
<i>Sr.No</i>	<i>TIN</i>	<i>Name Of Hawala Dealer</i>
<i>92</i>	<i>27590509892V</i>	<i>RAHUL TRADERS</i>
<i>1215</i>	<i>27260365107V</i>	<i>MEHUL TRADERS</i>

*Thus, even as on date, both the parties namely, M/s Mehul Traders & M/s Rahul Traders are proven accommodation entry providers, which have just issued false bills without delivery of any goods. Hence, the Ground No. 1 of the present appeal is dismissed.*

*5.6 The Ground of Appeal No. 2 is without prejudice to the 1<sup>st</sup> Ground of Appeal. In this Ground, the Appellant has contended that the Assessing Officer has erred in disallowing a sum of Rs. 5,20,033/-, being the amount of purchases capitalized by the appellant, as against a sum of Rs. 26,221/-, being the amount of depreciation claimed. I am inclined to accept the contention of the Appellant, as only an amount of Rs. 26,221/- has been claimed as expense on account of depreciation on the impugned bogus purchases. It is pertinent to note that before confirming the addition of Rs. 26,221/-, the books of account of the appellant are duly rejected u/s 145 of the Act.*

*5.7 Accordingly, the Ground No. 2 of the present appeal is allowed and addition to the extent of Rs. 26,221/- is upheld and the rest is deleted.”*

9. On a perusal of the order of the Ld.CIT(A) we do not see any valid reason to interfere in the decision of the Ld. CIT(A), since the genuineness of the purchases could not be verified as the suppliers were not traceable in the addresses given as reported by the Inspector on his physical inspection, Ld. CIT(A) has rightly disallowed only to the extent to the depreciation on such purchases and deleting the rest of the disallowance of purchases. Thus, we sustain the order of the Ld.CIT(A) and reject the grounds raised by the assessee.

10. Coming to the appeal for the A.Y. 2011-12, the assessee challenged the order of the Ld.CIT(A) in sustaining the reopening of assessment u/s. 147 of the Act and also sustaining the addition of ₹.9,48,151/- made by the Assessing Officer on account of purchases made from M/s. Raj Traders.

11. In so far as the reopening of assessment is concerned no arguments have been advanced by the Ld. Counsel for the assessee thus, this ground is not adjudicated.

12. Coming to the merits of the addition/disallowance, the Assessing Officer in the course of the assessment proceedings noticed that

assessee has obtained accommodation entries from dealer namely M/s.Raj Traders which is listed in the Sales Tax Department website and declared as hawala entry provider by the Sales Tax Department and provided accommodation entries without delivery of goods. Assessee was required to prove the genuineness of the purchases made from M/s.Raj Traders. The assessee furnished copies of purchase orders issued to M/s. Raj Traders, copies of invoices, ledger account, bank statements etc., and submitted that the purchases made by it are genuine. However, the Assessing Officer not convinced with the submissions of the assessee treated entire purchases of ₹.9,48,151/- as non-genuine for the only reason that M/s. Raj Traders has been declared as hawala dealer by Sales Tax Department, Mumbai, providing accommodation entries without delivery of goods. On appeal the Ld. CIT(A) sustained the addition on the ground that M/s. Raj Traders is appearing as hawala entry provider in the website of the Sales Tax Department.

13. Before us, Ld. Counsel for the assessee submitted that assessee has provided all the information to prove the genuineness of the purchases. It had furnished copies of purchase orders, invoices, ledger copies, bank statements and therefore the purchases were genuine. It is submitted that Assessee has discharged its burden to prove the genuineness of the transactions by furnishing all the necessary

evidences. Ld. Counsel for the assessee submitted that except relying on the Sales Tax Department website the Assessing Officer has not made any enquiry whatsoever to prove that the purchases made by assessee were not genuine. It is submitted that Assessing Officer has not at all justified in treating the purchases as non-genuine solely based on the information of the Sales Tax Department without conducting any enquiry.

14. Ld. DR supported the orders of the authorities below.

15. We have heard the rival submissions and perused the orders of the authorities below. On a perusal of the order of the Assessing Officer and the Ld. CIT(A) we find that the addition was made solely based on the information from the Sales Tax Department and its website showing the dealer namely M/s. Raj Traders as accommodation entry provider. There is nothing on record to suggest that the purchases made by the assessee from M/s. Raj Traders is non-genuine except relying on the Sales Tax Department website showing M/s. Raj Traders as hawala dealer. Neither the Assessing Officer nor the Ld. CIT(A) made enquires with the dealer to prove that the purchases made by the assessee are not genuine. The Assessing Officer did not issue notice u/s. 133(6) of the Act to the dealer to verify the genuineness of the transactions. It has been noticed earlier in the A.Y. 2009-10 the Assessing Officer deputed the Inspector to verify

the genuineness of the transactions with the dealers. However, in the year under consideration no such efforts have been made by the Assessing Officer. He simply relied on the Sales Tax Department website wherein M/s. Raj Traders was said to have been shown as hawala dealer. In our view without making any enquires, without proving that the evidences furnished by the assessee in the form of purchases orders, invoices, bank statements, ledger copies, etc., are not genuine the addition could not have been made solely based on the Sales Tax Department website, especially when the sales were accepted by the Assessing Officer and without there being any purchases there cannot be any sales. Thus, we direct the Assessing Officer to delete the addition made towards purchases from M/s. Raj Traders.

16. In the result, appeal of the assessee for the A.Y. 2009-10 is dismissed, whereas the appeal for the A.Y. 2011-12 is partly allowed.

Order pronounced in the open court on the 10<sup>th</sup> January, 2020

Sd/-  
**(RAJESH KUMAR)**  
**ACCOUNTANT MEMBER**  
Mumbai / Dated 10/01/2020  
Giridhar, Sr.PS

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to:**

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

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**