

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

**BEFORE SHRI SAKTIJIT DEY, JM
&
SHRI M.BALAGANESH, AM**

**ITA No.6585/Mum/2018
(Assessment Year :2011-12)**

ACIT-8(1)(1) Room No.624, 6 th Floor Aayakar Bhawan Maharshi Karve Marg Mumbai – 400 020	Vs.	M/s. Rohini Industrial Electricals Ltd. Voltas House, A Block 4 th Floor, Dr. B.A.Road Chinchpokli (E) Mumbai Maharashtra
PAN/GIR No.AAACR5512K		
(Appellant)	..	(Respondent)

Revenue by	Shri Kamal Mangal
Assessee by	Shri Nitesh Joshi
Date of Hearing	13/01/2020
Date of Pronouncement	15/01/2020

आदेश / ORDER

PER M. BALAGANESH (A.M.):

This appeal in ITA No.6585/Mum/2018 for A.Y.2011-12 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-14, Mumbai in appeal No.CIT(A)-14/IT-211/14-15 dated 27/07/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 19/03/2014 by the Id. Addl. Commissioner of Income Tax-8(3) (hereinafter referred to as Id. AO).

2. The first issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in restricting the disallowance made on account of bogus purchases to 12.5% as against 100% made by the Id. AO in the facts and circumstances of the case.

3. We have heard rival submissions and perused the materials available on record. We find that assessee is engaged in the business of undertaking electrical contracts, instrumentation contracts for power, process, industrial and commercial projects and rendering engineering services. The assessee is a subsidiary of M/s. Voltas Ltd. The Id. AO observed that assessee had made purchases from M/s. Om Traders for Rs.10,40,156/- and the name of such supplier has been listed as a hawala accommodation entry provider as per the information given by Maharashtra Sales Tax Department. The Id. AO disregarded the entire documentary evidences submitted by the assessee to support the genuineness of the purchases and proceeded to make 100% disallowance of the same treating the same as bogus purchases in the assessment. The Id. CIT(A) appreciated the fact that assessee had provided copies of purchase orders, invoices of M/s. Om Traders giving details of materials supplied and receipt of materials at the job sites. The Id. CIT(A) observed that mere provision of purchase bills, delivery challans and the evidence of payment made by cheque will not be sufficient to prove the genuineness of the transactions with the said party. The assessee submitted before the Id. CIT(A) that the goods were directly delivered by the seller to the contract site and invoices have a stamp of "Site Register Sheet Number" which shows that the invoice was entered into the register maintained at the work site. The Id. CIT(A) gave a categorical finding that there is evidence of consumption of goods mentioned in the purchase bills of M/s. Om Traders and the consumption of the

corresponding material had also been accepted by the Id. AO. Accordingly, the Id. CIT(A) concluded that the goods were purchased by the assessee from the grey market and for which bills were obtained from M/s. Om Traders, thereby leading to assessee deriving benefit in the form of non-payment of VAT etc., Hence, he held that only the profit element embedded in the value of such purchases should be brought to tax and accordingly, directed the Id. AO to add only 12.5% of the value of such purchases being the profit element thereon. Against this action of the Id. CIT(A), the assessee had not preferred any appeal before this Tribunal.

3.1. We find that in the instant case, there is no dispute with regard to consumption of goods by the assessee out of purchases made from M/s. Om Traders. Since the material purchased from alleged supplier has been actually consumed by the assessee in the business of the assessee which fact is not disputed by the revenue, we hold that the Id. CIT(A) was justified in adding 12.5% being the profit element embedded in such purchases, which in our considered opinion, does not warrant any interference. Accordingly, the ground raised by the revenue in this regard is dismissed.

4. The next issue to be decided in this appeal of the revenue is as to whether the Id. CIT(A) was justified in deleting the disallowance made on account of advances given to employees written off in the sum of Rs.9.67 lakhs in the facts and circumstances of the case.

4.1. We have heard rival submissions and perused the materials available on record. We find that assessee during the course of its business had given certain advances to its employees for meeting the expenses at project job sites. Some of the employees left the services of

the company without submitting the bills and documents and without refunding the advances received by them from the company. There is no dispute with regard to the fact that these advances were given to the employees in the normal course of its business and for the purpose of business of the assessee. Had the employees submitted the relevant bills together with supporting documents, the said advances would have been adjusted by corresponding debit to relevant expenditure account, which in turn would be eligible for deduction for the assessee. Since the employees had left the company without submitting the bills and documents and the recoverability of the advances given to those employees were totally doubtful, accordingly, the assessee prudently decided to write off the same in its books of accounts and claimed the same as business loss in terms of Section 28 of the Act and claimed deduction accordingly. We do not find any discrepancy in the said action of the assessee claiming deduction in respect of business advances written off which was given to employees. Accordingly, the ground raised by the revenue in this regard is dismissed.

5. In the result, appeal of the revenue is dismissed.

Order pronounced in the open court on this 15/01/2020

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Mumbai; Dated
KARUNA, *sr.ps*

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

15/01/2020

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, Mumbai