

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA
(Virtual Court)**

(Before Sri J. Sudhakar Reddy, Accountant Member & Sri S.S. Godara, Judicial Member)

**I.T.A. No.: 74/Kol/2020
Assessment Year: 2013-14**

JCIT (OSD), Circle-3(1), Kolkata.....Appellant

Vs.

**M/s. Prakash Steel Products Pvt. Ltd.....Respondent
[PAN: AABCP 5269 JJ]**

Appearances by:

Smt. Ranu Biswas, Addl. CIT, appeared on behalf of the Revenue.

Sh. Subash Agarwal, Adv., appeared on behalf of the Assessee.

Date of concluding the hearing : October 19th, 2020
Date of pronouncing the order : November 26th, 2020

ORDER

Per J. Sudhakar Reddy, AM:

This appeal filed by the Revenue is directed against the order of the Learned Commissioner of Income Tax (Appeals)-5, Kolkata [hereinafter the "CIT(A)"], passed u/s. 250 of the Income Tax Act, 1961 (the 'Act'), dated 22.08.20109 for the Assessment Year 2013-14.

2. There is a delay of 5 days in filing of the appeal. After going through the petition for condonation of delay, we condone the delay and admit the appeal.
3. After hearing rival contentions, we find that the only ground of the appeal of the Revenue is the deletion of the addition of ₹3,54,96,090/- made by the AO on account of bogus purchases.
4. The ld. CIT(A) at page 14 of his order held as follows:

"I have considered the submission of the appellant and perused the relevant assessment records. The A.O. in the assessment order had held that the purchase amounting to Rs.3,54,96,090/- was bogus on the grounds that the inspector in his report had made a finding that there was no trading activity going on the business premises of the seller M/s Universal Trading Company. Secondly, the A/R of the appellant could not provide any details or evidence of the transactions as well as evidence of transportation of goods. The A/R of the appellant in his submission had stated that the addition has been made on presumption without going into

facts. The A.O. had not taken into consideration the fact that M/s Universal Trading Company had responded to notices u/s 133(6) of the Act in which the ledger copy of transactions with the appellant was submitted. During the course of appeal proceedings, the A/R of the appellant have produced additional evidence in the form of copies of VAT returns of M/s Universal Trading Company and stock statement of the appellant company. A remand report was called for from the A.O. asking for his comments on additional evidence submitted. The A.O. in his remand report dated 20.04.2018 had submitted that copies of VAT returns of M/s Universal Trading Corporation showed transactions with appellant assessee for the period ended June 2012 & March 2013. The bank statement of appellant/assessee of its account in OBC is present in file as well as in the Paper Book, and reflects money paid to Universal Trading Corporation. However, the A.O. had remarked that the Bankers are not in a position to vouch about the nature of transaction that resulted in the payment to Universal Trading Corporation. From the remand report, it is clear that the A.O. could find no lacunae with the documents furnished by the A/R of the appellant in support of transactions with M/s Universal Trading Company. The A.O. had exceeded his brief when he remarked that the bankers could not vouch the nature of transactions. These transactions were made in the ordinary course of business on which the banks do not exercise oversight. The A.O had admitted that the VAT returns of M/s Universal Trading Company had reflected transactions with the appellant company. The details of these transactions are as follows:

Period	Sale inclusive of VAT	VAT Paid	Net sales
06.12	2,52,84,968	9,72,498	2,43,12,470
03.13	1,16,30,964	4,47,344	1,11,83,620
	3,69,15,932	14,19,842	3,54,96,090

From the above chart, it is clear that the seller M/s Universal Trading Company had reflected the sales made to the appellant company in its VAT returns. This was also not disputed by the A.O. M/s Universal Trading Company in its balance sheet for A.Y. 2013-14 had reflected turnover amounting to Rs.118.29 crores and has paid tax: approximately Rs.17 lakhs. The transactions with the appellant company were through bank and all payments were made by cheques. It appears that the addition has been made solely on the basis of Inspectors report. The Inspectors Report states that no evidence of transaction was produced and that no trading activity was going on in the business premises of M/s Universal Trading Company. However, it should be pointed that the transactions relate to F.Y. 2012-13 while the Inspectors report is based on verification done in F.Y. 2015-16 more than two years after the transactions had been made. The A/R of the appellant had produced evidence of the purchase which was verified by the A.O. in the remand report. In light of the above facts, it cannot be held that the purchase was bogus."

5. The ld. D/R could not controvert these factual findings of the ld. CIT(A) which were given after calling for a remand report from the AO. The AO's action of making this disallowance was arbitrary. It was based on conjectures and surmises. The evidence on record was ignored. We find no infirmity in this factual findings of the ld. CIT(A). Hence, we uphold the same and dismiss this appeal of the Revenue.

6. In the result, the appeal of the Revenue is dismissed.

Kolkata, the 26th November, 2020.

Sd/-
[S.S. Godara]
Judicial Member

Dated: 26.11.2020
Bidhan

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Copy of the order forwarded to:

1. **JCIT (OSD), Circle-3(1), Kolkata**
2. **M/s. Prakash Steel Products Pvt. Ltd., 1A, Baishnob Charan Seth Street, Kolkata-700 006.**
3. CIT(A)-5, Kolkata. (sent through mail)
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata. (sent through mail)

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches