

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI  
श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.626/CHNY/2019  
(निर्धारण वर्ष / Assessment Year: 2013-14)

**M/s. VPS Silk Fabrics Pvt. Ltd.,**  
No.2/41-3, Water Tank Street,  
Perumagoundampatty, Elampillai,  
Salem-636 502

Vs **The ACIT,**  
Circle – 2,  
3, Gandhi Road,  
Salem – 636 007

**PAN: AACCV4869K**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of hearing

: 17.11.2020

घोषणा की तारीख /Date of Pronouncement

: 01.12.2020

**आदेश / ORDER**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals), Salem in ITA No.318/2015-16 dated 31.01.2019 for the assessment year 2013-14.

2. M/s. VPS Silk Fabrics Pvt. Ltd., the assessee, is engaged in the business of manufacture and trading of silk fabrics. While making the assessment for assessment year 2013-14, on verification of bills and ledger account of purchases, the AO found that the assessee had made unaccounted purchase of Rs.17,50,279/- which was not entered in its books. When he sought clarification, the assessee pleaded to tax the gross profit on the impugned purchase and relied on certain case laws. However, the AO held that the genuine purchase is unaccounted. Since the account was tallied without entry, the source must be unaccounted in the books. Therefore, he assessed the sum of purchase u/s. 69C of the Income Tax Act, 1961 (hereinafter 'the Act'). Aggrieved the assessee filed an appeal before the CIT(A) and the Ld.CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The case was heard through video conferencing. The Id.AR submitted that the AO is not factually correct in observing that the impugned sum is an unaccounted money when only one credit invoice of Rs.17,50,279/- towards purchase of yarn from M/s. Surat Metalics P. Ltd., Surat was omitted to be transacted in the assessee's books of accounts. Inviting our attention to the Paper-book, wherein the impugned invoice dated 15.07.2012 raised by M/s. Surat Metalics P. Ltd., for sale of yarn, written submissions made before the AO dated

03.12.2016 on the impugned transaction, reconciliation statement between the books of accounts of the assessee and M/s. Surat Metallica P. Ltd., and the corresponding ledger extracts of the assessee and M/s. Surat Metallica P. Ltd., were placed, the Id.AR submitted that the assessee has shown purchases from M/s. Surat Metallica P. Ltd., at Rs.3,15,88,240/-, while the value shown by M/s. Surat Metallica P. Ltd., is at Rs.3,33,38,519/-. Thus, only one invoice, which is under consideration, was not accounted in the assessee's book. However, payment made to them at Rs.2,65,70,277/- is perfectly tallying in both the accounts. Inviting our attention to the ledger extracts, the Id.AR submitted that the entire payments were made through banking channels only and there is no cash payment. The opening balance shown by the assessee and M/s. Surat Metallica P.Ltd., are at Rs.38,95,563/- and Rs.40,49,865/- respectively. Thus there is a difference of Rs. (-)1,54,302/-, in the accounts. The closing balance in the books of assessee and M/s. Surat Metallica P. Ltd., are at Rs.89,13,526/- and 1,08,18,163/-, respectively, resulting in difference of Rs.19,04,637/-. However, the payment made to them by the assessee is perfectly matching with the books of the assessee as well as M/s. Surat Metallica P. Ltd., at Rs.2,65,70,277/-. Therefore, the Id.AR pleaded that the impugned transaction is not an unaccounted purchase but merely an omission. The purchase account should have been debited and the

supplier account should have been credited. An inadvertent error to pass a journal entry, to a verifiable party cannot be treated as an unexplained expenditure. No outgoing of any unexplained money has taken place. The yarn genuinely purchased has been consumed in manufacture of finished goods and included in the sales admitted; Income returned does not therefore require any addition to be made. However before the AO, with a view to avoid litigation, the assessee agreed to the addition of an estimated profit element embedded in the impugned transaction to returned income relying on the decisions of the Hon'ble Gujarat High Court report in 356 ITR 451 and 351 ITR 150. However, neither the AO nor the CIT(A) appreciated the facts and circumstances properly and hence the Id.AR pleaded to delete the addition u/s.69C of the Act.

4. Per contra, the Ld.DR vehemently supported the orders of the lower authorities.

5. We heard the rival contentions and gone through the relevant material. Though the assessee has placed relevant materials before the Id.AO and explained the impugned transaction viz., omission of only one purchase in its books, which the assessee pleads as an inadvertent error happened due to improper reconciliation of accounts before closing the

accounts, the AO has neither found that the impugned money was paid outside the accounts nor any difference in the closing stock reported by the assessee. It is clear from the above that the other party has accounted the impugned purchase and the entire transactions are settled through accounted banking channel only, *supra*. In the facts and circumstances, we are of the view that the ingredients required for making the addition u/s.69C of the Act are not made out. However, assessing the gross profit arising out of the impugned purchase would do justice to the Revenue and hence we direct the AO to delete the addition made u/s.69C of the Act but add the quantum of income at the admitted gross profit rate on the omitted purchase amount at Rs.17,50,279/- to the returned income and recompute the total income accordingly.

5. In the result, the assessee's appeal is treated as partly allowed.

Order pronounced on 1<sup>st</sup> December, 2020 at Chennai.

Sd/-

(वी दुर्गा राव)

(V. Durga Rao)

न्यायिक सदस्य/Judicial Member

Sd/-

( एस जयरामन )

(S. Jayaraman)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 1<sup>st</sup> December, 2020

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT     | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF             |