

M/s. IVP Ltd.

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC" MUMBAI**

**BEFORE SHRI VIKAS AWASTHY (JUDICIAL MEMBER) AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA Nos. 5220 & 5221/MUM/2019  
Assessment Years: 2010-11 & 2011-12**

ITO, Ward-6(3)(2)  
Room No.503, 5<sup>th</sup> Floor,  
Aaykar Bhawan  
M.K.Road, Mumbai-400 020

**Vs.** M/s. IVP Ltd.  
IVP Building, S.N.Redij Marg  
Reay Road  
Mumbai-400 033

**Appellant**

**PAN No. AAACI0992A  
Respondent**

Revenue by : Ms. Smita Verma, DR  
Assessee by : Ms. Krupa Gandhi, AR

Date of Hearing : 08/03/2021  
Date of pronouncement : 12/03/2021

**ORDER**

**PER N.K. PRADHAN, A.M.**

The captioned appeals filed by the Revenue are directed against the order of the Commissioner of Income Tax (Appeals)-12, Mumbai [in short 'CIT(A)'] and arise out of the assessment completed u/s 143(3) r.w.s. 147 of the Income Tax Act 1961, (the 'Act'). Facts being identical, we begin with AY 2010-11.

2. Briefly stated that the facts of the case are that the assessee-company filed its return of income for the AY 2010-11 on 23.09.2010 declaring total income

at Rs.1,66,379/- . On receipt of information from the Sales Tax Department, Government of Maharashtra that the assessee had obtained bogus purchase bills of Rs.9,68,500/- from International Trade Agency, the Assessing Officer (AO) issued notice u/s.148 for reopening the assessment. In response to it, the assessee filed a reply dated 24.04.2015 stating that the return filed on 23.09.2010 be treated as return filed in response to notice u/s 148 of the Act. During the course of re-assessment proceedings, the Assessing Officer (AO) issued notice u/s.133(6) to International Trade Agency to verify the genuineness of the purchases. However, that notice was returned un-served by the Postal authorities. Also, during the course of assessment proceedings, the AO asked the assessee to submit the purchase details, bills and ledger copy of said concern, sales tax return filed by the above party and documentary evidence for the transactions. The assessee filed purchase details, ledger account of the said parties, bills and bank account. As recorded by the AO the assessee failed to file documentary evidence such as lorry receipts, receipt of goods in godown supported by daily stock register, evidence for payment of octroi and cess in the check post.

Considering the above facts, the AO made an addition of the full amount of Rs.9,68,500/-.

3. In appeal, the Ld.CIT(A) *vide* order dated 03.04.2019 held that the savings on account of VAT and other incidental charges made by the assessee on the said bogus purchases can be brought to tax as additional profit. Considering the facts and circumstances of the case, he directed the AO to restrict the

M/s. IVP Ltd.

disallowances to 12.5% of the disputed purchases of Rs.9,68,500/-, which comes to Rs. 1,21,063/-.

4. Before us, the Ld. DR relies on the order of the AO, whereas the Ld. Counsel for the assessee supports the order passed by the Ld.CIT(A).

5. We have heard the rival submissions and perused the relevant materials available on record. The reasons for our decisions are given below.

As mentioned earlier, the notices issued by the AO u/s. 133(6) to M/s. International Trading Agency was returned un-served by the Postal authorities. As recorded by the AO, the assessee filed before him *vide* letter dated 16.09.2015, purchase details, ledger account of the said party, bills and bank account. However, the assessee could not file before the AO documentary evidence such as lorry receipts, receipt of goods in godown supported by daily stock register, evidence for payment of octroi and cess in the check post.

In such a situation, only the profit embedded in such disputed purchases can be brought to tax. The nature of business of the assessee is manufacturing and trading of Foundry chemicals. Considering the facts and circumstances of the case, the Ld.CIT(A) has rightly restricted the disallowances made by the AO to 12.5% of such disputed purchases, which comes to Rs.1,21,063/-. We affirm the order of the Ld.CIT(A).

Facts being identical, our decision for AY 2010-11 applies *mutatis-mutandis* to AY 2011-12.

M/s. IVP Ltd.

6. In the result, the appeals filed by the revenue are dismissed.

**Order pronounced in the open Court on 12/03/2021**

Sd/-  
(VIKAS AWASTHY)  
JUDICIAL MEMBER

Sd/-  
(N.K. PRADHAN)  
ACCOUNTANT MEMBER

Mumbai;

Dated: 12/03/2021

Thirumalesh Sr. P.S.

**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,

(Dy./Assistant Registrar)  
**ITAT, Mumbai**