

**IN THE INCOME TAX APPELLATE TRIBUNAL, JODHPUR BENCH,
JODHPUR**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL ACCOUNTANT MEMBER**

**ITA No. 205/JODH/2019
(Assessment Year: 2016-17)**

A.C.I.T. Circle, Bhilwara	Vs.	M/s Samarpan Synthetics Pvt. Ltd., 54, Bhilwara Textiles Market, Pur Road, Bhilwara-311001, Rahasthan.
PAN No. AAHCS 4365 G		

Revenue by	Shri A.S. Yadav, JCIT DR
Assessee by	Shri P.C. Parwal, CA
Date of Hearing	03.11.2020
Date of Pronouncement	01/02/2021

ORDER

PER BENCH

The present appeal has been filed by the Revenue against the order of the Id. CIT(A), Ajmer dated 25/03/2019 for A.Y. 2016-17, wherein the Revenue has raised following grounds of appeal:

- "1. Deleting the addition of Rs.7,82,95,551/- u/s 69 of the IT Act, 1961 made by the AO on account of unexplained investment by considering the purchase of Rs.7,82,95,551/- shown against the name of not existent six parties was bifurcation of total purchases of Rs.10,00,68,034/- from M/s Maximum Synthetics Pvt. Ltd. but completely ignored the fact that the assessee furnished ledger accounts of these non-existing six parties during the course of assessment proceedings before AO showing date wise quantity in the narration which also supported by the purchase bill of the*

parties M/s Poonam Synthetics and M/s Jain Syntax which were part of the assessment order.

- 1.1 Not appreciating the fact that company had its own manufacturing still shown purchase of finished goods from unverifiable bogus entities and never produced complete details and books of accounts before the AO while deleting addition of Rs.7,82,95,551/-.*
- 1.2 Accepting the verbal contention of the assessee that purchase of Rs.10,00,68,034/- were bifurcated in the name of seven parties to obtain loan/ limit from the bank as the assessee failed to substantiate its claim before the AO as well as before the Ld. CIT(A) that why this bifurcation was necessary to obtain bank limit and how can it affect the bank limit thereby allowed the perpetuation of the creation of fraudulent documentation before AO and bank which should have been tested instead.*
- 2. Deleting addition of Rs.1,23,87,853/- made on account of profit against sale of unaccounted purchase as the assessee failed to negate the findings of AO that it has made the unaccounted purchases of Rs.7,82,95,551/- during the year under consideration.”*

2. The hearing of the appeal was concluded through video conference in view of the prevailing situation of Covid-19 Pandemic.

3. The brief facts of the case are that the assessee company is engaged in the business of manufacturing and trading of textile products. It filed its return of income on 15.10.2016 at Nil income. During the year it declared gross profit of Rs.5.22 crore on sales of Rs.36.14 crore giving G.P. rate of 14.47% as against gross profit of Rs.5.37 crore on sales of Rs.3.31 crore giving G.P. rate of 16.19% in last year. In assessment proceedings AO

required the assessee to furnish details of purchase of finished fabrics of Rs.1 lakhs and above. In response to same assessee filed the details of purchase of finished fabric which is reproduced at page 3 of the assessment order. The assessee also filed the copy of ledger account of these parties. The AO issued summon u/s 131 of the Income Tax Act, 1961 (in short, the Act) to verify the purchase of finished fabric and called for certain details reproduced at page 4 of the order. The AO observed that assessee produced incomplete books. Further assessee did not produce any other details regarding purchase of finished fabrics such as quantitative details or daily stock register of the six parties mentioned at page 4 to 5 of the assessment order. On 15.12.2018 statement of Sh. Azad Sharma (wrongly mentioned as Anand Sharma), accountant of the company was recorded where in reply to Q.No.6 he denied to produce any details of these parties though earlier assessee himself has submitted details of purchases from these six parties and bills of two parties for valuation purpose. Further in reply to Q.No.8, Azad Sharma (wrongly mentioned as Anand Sharma) stated that company did not make purchases from these six parties and mentioned that those bills were prepared for bank loan purpose only. The assessee has purchased finished fabrics of Rs.15,00,44,069/- only from parties mentioned in table no. 3 at page 5 of the assessment order and duly shown in the profit & loss account. The AO, however, held that the assessee is

maintaining two set of books of accounts. In one set of books, purchases from parties at S.No.1 to 6 of table no.2 were reflecting and in other set of books such purchases are not reflected. The assessee produced ledger and sample bills from which it is evident that purchases have been made from these parties and later on it has been denied. Accordingly, book results of the assessee company can't be treated as reliable. This shows that assessee is engaged in out of books purchase or sale of goods. Accordingly, he issued show cause notice on 19.12.2018 reproduced at page 6 to 9 of the assessment order requiring to show cause as to why purchases of Rs.7,82,95,551/- may not be considered as unexplained investment u/s 69 of the Act and gross profit of Rs.1,21,11,922/- ($7,82,95,551 \times 14.32\%$) may not be added to the total income. In response to same assessee submitted reply vide letter dated 21.12.2018 explaining that for bank loan/limit purpose, purchase made from M/s Maximum Synthetics Pvt. Ltd. has been split in the name of six parties but in fact there is no purchase from these parties and therefore no addition should be made. The AO, however, did not accept the explanation of assessee and rejected the books of accounts u/s 145(3) of the Act and made addition of Rs.7,82,95,551/- by treating the purchases made from the six parties as unexplained investment u/s 69 of the Act. He further held that these purchases were sold outside books of accounts and thus, made addition of unaccounted profit of Rs.1,23,87,853/-

by applying average g.p. rate of preceding two years, i.e. 15.86% on Rs.7,82,95,551/- without allowing any further expenditure against such profit.

4. Being aggrieved by the order of the A.O., the assessee carried the matter before the Id. CIT(A), who after considering the submissions of both the parties and after perusal of the material placed on record, deleted the addition by holding that the purchases of M/s Maximum Synthetics Pvt. Ltd. at Rs.10,00,68,034/- as appearing in the books of accounts of the appellant (though in the party wise list of purchases, the purchases from M/s Maximum Synthetics Pvt. Ltd. were shown at Rs.2,17,72,483/- only) and also treat the purchases of Rs.7,82,95,551/- from above referred six parties as unaccounted purchases of the assessee. When the purchases and payments shown against the name of above referred six parties are same as appearing in the accounts of M/s Maximum Synthetics Pvt. Ltd., then there is no justification for rejecting the explanation of appellant that purchases of Rs.10,00,68,034/- made from M/s Maximum Synthetics Pvt. Ltd. were bifurcated in the name of seven parties only for the purpose of obtaining loan/ limit from the bank. The AO cannot take some figures (purchases of Rs.7,82,95,551/-) from non-existent 6 parties and other figures from list of party wise purchases submitted on 10.11.2018 (purchases of

Rs.10,00,68,034/- from M/s Maximum Synthetics Pvt. Ltd.) as appearing in the books of accounts of the assessee. The explanation of assessee that purchases of Rs.7,82,95,551/- shown against the name of above referred non-existent six parties in the party wise purchase submitted along with letter dt. 10.11.2018 was in fact bifurcation of the total purchases of Rs.10,00,68,034/- from M/s Maximum Synthetics Pvt. Ltd. only cannot be rejected. Thus, addition of Rs.7,82,95,551/- made by the AO holding that assessee had made purchases of Rs.7,82,95,551/- out of books of accounts from the non-existent 6 parties is deleted. Further the addition of Rs.1,23,87,853/- made by the AO on account of sale of unaccounted purchases of goods of Rs.7,82,95,551/- is also deleted. Against the said order of the Id. CIT(A), the Revenue is in further appeal before the ITAT.

5. Grounds No. 1, 1.1, 1.2 and 2 of the appeal are interrelated and interconnected, therefore, both these grounds are being disposed off by this consolidated order. The Id. DR has relied on the order of the A.O. and has further submitted that the assessee company is involved in the manufacturing and trading of textile products. He also submitted that the assessee purchased huge quantity of finished fabrics despite having its own manufacturing activities. When the assessee asked for give details of those persons from whom it had purchased fabrics of more than Rs. 1.00 lacs but

the assessee failed to submit such details. The DR has further submitted that Id. CIT(A) had erred in deleting the addition of Rs.7,82,95,551/- u/s 69 of the Act made by the AO on account of unexplained investment by considering the purchase of Rs.7,82,95,551/- shown against the name of not existent six parties was bifurcation of total purchases of Rs.10,00,68,034/- from M/s Maximum Synthetics Pvt. Ltd. but completely ignored the fact that the assessee furnished ledger accounts of these non-existing six parties during the course of assessment proceedings before AO showing date wise quantity in the narration which also supported by the purchase bill of the parties M/s Poonam Synthetics and M/s Jain Syntax which were part of the assessment order. Ld. DR also submitted that the Id. CIT(A) had also erred in not appreciating the fact that company had its own manufacturing still shown purchase of finished goods from unverifiable bogus entities and never produced complete details and books of accounts before the AO while deleting addition of Rs.7,82,95,551/-. Ld. DR also submitted that the Id. CIT(A) had also erred in accepting the verbal contention of the assessee that purchase of Rs.10,00,68,034/- were bifurcated in the name of seven parties to obtain loan/ limit from the bank as the assessee failed to substantiate its claim before the AO as well as before the Ld. CIT(A) that why this bifurcation was necessary to obtain bank limit and how can it affect the bank limit thereby allowed the perpetuation

of the creation of fraudulent documentation before AO and bank which should have been tested instead. Ld. DR also submitted that the Id. CIT(A) had erred in deleting addition of Rs.1,23,87,853/- made on account of profit against sale of unaccounted purchase as the assessee failed to negate the findings of AO that it has made the unaccounted purchases of Rs.7,82,95,551/- during the year under consideration. The Id DR has vehemently supported the order of the A.O.

6. On the contrary, the Id AR appearing on behalf of the assessee has reiterated the same arguments as were raised before the Id. CIT(A) and has also relied on the written submissions filed before the Bench and the contents of its written submissions are reproduced below:

1. *It is submitted that the entire addition made by the AO is on the basis of purchase details of finished fabrics above Rs.1,00,000/- submitted by the assessee vide letter dated 09.11.2018 along with the ledger account and sample bills. In this letter details of 10 parties from whom purchase of finished fabrics was made is given. This list includes name of six parties from whom no purchases were in fact made. Rather the purchases made from M/s Maximum Synthetics Pvt. Ltd. of Rs.10,00,68,034/- was bifurcated in the name of these six parties as explained vide letter dated 21.12.2018 (PB 45-52) as under:-*

S. No.	Particulars	Qty (Mtr.)	Amount (Rs.)	S. No.	Particulars	Qty (Mtrs.)	Amount (Rs.)
1.	Actual purchases from	833554.45	10,00,68,034/-		Actual purchases from M/s		

	<i>M/s Maximum Synthetics Pvt. Ltd. Bhilwara as per profit & Loss A/c and Balance Sheet</i>				<i>Maximum Synthetics Pvt. Ltd. Bhilwara bifurcated in the following parties only for bank loan/ limit purposes</i>		
				1.	<i>M/s Maximum Synthetics Pvt. Ltd. Bhilwara</i>	190147.60	2,17,72,483/-
				2.	<i>Harsh Textile Bhl</i>	112859.55	1,36,28,298/-
				3.	<i>Jain Syntex, Bhilwara</i>	81814.15	9735883/-
				4.	<i>Kashliwal Synthetics, Bhilwara</i>	114052.10	14598680/-
				5.	<i>Kaveri Synthetics, Bhilwara</i>	73139.15	89,22,977/-
				6.	<i>Poonam Synthetics, Bhilwara</i>	80747.25	1,00,12,663/-
				7.	<i>Shree Govindam Textile, Bhilwara</i>	180794.65	2,13,97,050/-
	TOTAL	833554.45	10,00,68,034/-		TOTAL	833554.45	10,00,68,034/-

From the above details it can be noted that quantity and the amount of purchases made from M/s Maximum Synthetics Pvt. Ltd. is duly recorded in the regular books of accounts and the same is also supported by the stock records. Only for the bank purpose, purchase is shown to the banker in seven names including M/s Maximum Synthetics Pvt. Ltd. as the assessee was under the apprehension that if purchase from one party of Rs.10 cr. is shown to the bank it may lead to adverse opinion from the bankers for grant of limit in as much as the banker may take a view that assessee is mainly dependent on purchases from one supplier only and therefore the said bifurcation was provided to the bank which was also submitted to the AO but the fact remains is that no purchase is made from these six parties and therefore, the same is not part of books of accounts.

- 2. The fact that assessee has not made purchases from these six parties is also independently verified by the AO by recording the statement of*

accountant Azad Sharma (PB 53-65). In this statement he has stated as under:-

- (i) The bills of these six parties are not entered in the books as bills and records of these parties were prepared only for bank limit purpose. No purchases are made from these parties (reply to Q.No.8) (PB 58-60).*
- (ii) There is no difference in total purchases. The same are duly supported by finish purchase register and original bills. The same are tallied with the bank statement. The difference of six parties is only due to bank loan/limit purpose (reply to Q.No.9) (PB 60-61).*
- (iii) The details of these parties are prepared for bank loan purpose. The total purchases tally with the profit & loss account and sales tax return. No cash purchases are made (reply to Q.No.13) (PB 63-65).*

This statement has not been controverted by the AO by bringing any adverse material against the assessee. In fact before drawing adverse conclusion against the assessee, AO has not made any enquiry to know about the existence of these parties. Therefore, simply on surmises and conjectures it can't be presumed that assessee has fabricated the books of accounts and made cash purchases from these six parties which is not recorded in the books of accounts.

- 3. The fact that assessee has not made purchases from these six parties rather the purchase made from M/s Maximum Synthetics Pvt. Ltd. has been bifurcated in the name of these six parties is evident from the fact that payment for purchases recorded in the ledger account of these six parties (PB 7-16) are in fact made to M/s Maximum Synthetics Pvt. Ltd. as is evident from its ledger account in the books of accounts (PB 17-22). This fact is also verified by the AO by calling the bank statement of*

the assessee from the banker u/s 133(6) where it is verified that the payment reflected against these six parties are made in the account of M/s Maximum Synthetics Pvt. Ltd. This fact proves that no purchases is made from these six parties but only for bank purpose, the purchase made from M/s Maximum Synthetics Pvt. Ltd. was partly shown in the name of these six parties. However, taken together, both the quantity and value of purchases shown to the bank is duly recorded in the regular books of accounts of the assessee. Hence, there is no basis with the AO to presume that assessee has made cash purchases out of books from these six parties which is also sold out of books.

4. *The AO has made the addition u/s 69. The provisions of section 69 reads as under:-*

"Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year"

From the above provisions it can be noted that addition under this section can be made if the following conditions are satisfied:-

- (i) Assessee has incurred the expenditure.*
- (ii) Offered no explanation about the source or the explanation offered is not satisfactory.*

In the present case, assessee has not incurred any expenditure on purchase from these six parties. This fact was cross verified by the AO by taking statement of the accountant. Further the source of payment made

to them in the ledger account is duly recorded in the books in the ledger account of M/s Maximum Synthetics Pvt. Ltd. as verified by the AO from the bank statement called u/s 133(6). The AO has not brought any evidence on record to prove that assessee has made any cash payment to these six parties. He has also not made any enquiry from these parties to hold that assessee has made cash payment. Hence, without discharging the burden casted u/s 69 on the AO and by simply rejecting the explanation of assessee, addition made by AO u/s 69 is unjustified which has been rightly deleted by Ld. CIT(A).

5. *As there is no out of books purchases, the question of selling the same does not arise. Accordingly, addition made by the AO of Rs.1,23,87,853/- on account of profit on alleged sale of unaccounted purchases has been rightly deleted by Ld. CIT(A). In view of above, order of Ld. CIT(A) be upheld by dismissing the ground of department.*

7. We have heard the Id. Counsels of both the parties and have perused the material placed on record. From perusal of the record, we found that the Id. CIT(A) has deleted the additions so made by the A.O. by observing as under:

"4.3 *I have gone through the assessment order, statement of facts, grounds of appeal and written submission carefully. It is seen that during the course of assessment proceedings, the AO asked the appellant to furnish details of purchase of finished fabrics above Rs. 1 lac. The appellant vide letter dated 10.11.2018 submitted the partywise details of finished fabric purchased by the appellant as under:*

SAMARPAN SYNTHETICS PVT. LTD.
54, BHILWARA TEXTILE MARKET, BHILWARA
ASSESSMENT YEAR 2016-17

Details of purchase of Finish Fabric above Rs. 1 lakh as on 31.03.2016.

S.No	Name of the party	Place	Amount	Total Out. Purchased
1	Harsh Textile	Bhilwara	13628298	112859.55
2	Jain Syntex	Bhilwara	9735883	81814.15
3	Kashliwal Textile	Bhilwara	14598680	114052.10
3	Kaveri Synthetics	Bhilwara	8922977	73139.15
4	Maximum Synthetics Pvt. Ltd.	Bhilwara	21772483	190147.60
5	Poonam Synthetics	Bhilwara	10012663	80747.25
6	Saidristi Suitings Pvt. Ltd.	Bhilwara	30659425	269299.60
7	Sarvodaya Suitings Ltd.	Bhilwara	19044400	165762.15
8	Shree Govindam Textile	Bhilwara	21397050	180794.65
9	Sukh Sagar Synthetics Pvt. Ltd.	Bhilwara	138157	1713.90
	Below Rs. 100000/-		134053	1696.20
	Total		150044069	1272026.30
	Add: Grey Fabric Purchases		32014828	398326.00
	Total Fabric Purchases		182058897	

The total purchase of fabric debited in the Profit & Loss Account is also of Rs. 18,20,58,897/- only. Later on, the appellant submitted that the purchases made from Maximum Synthetics Pvt. Ltd. was of Rs. 10,00,68,034/- and this purchase of Rs. 10,00,68,034/- made from Maximum Synthetics Pvt. Ltd. were shown in the name of seven parties as under:

Particulars	Qty (Mtrs.)	Amount
M/s Maximum Synthetics Pvt. Ltd. Bhilwara	190147.60	2,17,72,483/-
Harsh Textile Bhl	112859.55	1,36,28,298/-
Jain Syntex, Bhilwara	81814.15	9735883/-
Kashliwal Synthetics, Bhilwara	114052.10	14598680/-
Kaveri Synthetics, Bhilwara	73139.15	89,22,977/-
Poonam Synthetics, Bhilwara	80747.25	1,00,12,663/-
Shree Govindam Textile, Bhilwara	180794.65	2,13,97,050/-
TOTAL	833554.45	10,00,68,034/-

In other words, according to the appellant, in the books of accounts of the appellant purchases from Maximum Synthetics Pvt. Ltd. were shown at Rs. 10,00,68,034/- but in the detail of partywise purchases above 1 lac submitted by the appellant, the purchases from Maximum Synthetics Pvt. Ltd. were shown only at Rs. 2,17,72,483/- and remaining purchases was shown in the name of six parties mentioned above. The purchases of Rs. 10,00,68,034/- made from

Maximum Synthetics Pvt. Ltd. were shown in the name of seven different parties only for the purpose of obtaining loan/ limit from the bank. Actual purchases were made from Maximum Synthetics Pvt. Ltd. only and no purchases from other six parties were made by the appellant. However, the AO accepted the contention of appellant that purchases from Maximum Synthetics Pvt. Ltd. were made of Rs. 10,00,68,034/- as appearing in the books of accounts of the appellant (though in the list submitted by the appellant, the purchases from Maximum Synthetics Pvt. Ltd. were shown only at Rs. 2,17,72,483) but he did not accept the contention of the appellant that purchases shown in the name of remaining six parties were only bifurcation of total purchases of Rs. 10,00,68,034/- made from Maximum Synthetics Pvt. Limited.

It is seen that the total purchases of fabric shown in the Profit & Loss Account is of Rs. 18,20,58,897/-. The total purchases shown in the list submitted by the appellant vide letter dated 10.11.2018 was also Rs. 18,20,58,897/-. However, in the books of accounts, the purchases shown from Maximum Synthetics Pvt. Ltd. was of Rs. 10,00,68,034/- but in the partywise list of purchases submitted vide letter dated 10.11.2018, purchases from Maximum Synthetics Pvt. Ltd. was shown at Rs. 2,17,72,483/- only and remaining purchases of Rs. 7,82,95,551/- (Rs. 10,00,68,034 — Rs. 2,17,72,483) was shown in the name of Harsh Textile (Rs.1,36,28,298), Jain Syntex (Rs.97,35,883), Kasliwal Textile (Rs.1,45,98,680), Kaveri Synthetics (Rs.89,22,977), Poonam Synthetics (Rs.1,00,12,663) and Govindam Textile (Rs. 2,13,97,050). The AO during the course of assessment proceedings also recorded the statement of Shri Azad Sharma, accountant of the appellant company on 15.12.2018 u/s 131. The

relevant portion of the statement of the accountant is reproduced hereunder for ready reference:

“प्र.6 आपके द्वारा दिनांक 10/11/18 को Finish Fabrics purchase (above one lakh) की partywise details quantity और amount में दी थी कृपया निम्नलिखित फर्मों के Bill, Payment detailed माल की आवक से संबंधित records प्रस्तुत करें ।

(a) Harsh Textiles (b) Jain Syntex (c) Kashliwal textile (d) Kaveri Synthetics (e) Maximum Synthetics P.Ltd. (f) Poonam Syntex (g) Saidristi Suitings P.Ltd. (h) Sarvodya Suitings P.Ltd. (i) Shree Govindam Textile (j) Sukh Sagar Synthetics

उ.- उपरोक्त Party से related सिर्फ ledger और bills है जिसमें Harsh Textiles, Jain Synthetics, Kashliwal Textile, Kaveri Synthetics, Poonam Synthetics, Shree Govindam Textile का कोई भी record उपलब्ध नहीं है । उक्त फर्मों के bills, ledger में आपको प्रस्तुत नहीं कर सकता हूँ । साथ ही, Finish purchase की entry register/stock receipt register उपलब्ध नहीं करा सकता हूँ । मैं आपको Maximum Synthetics P.Ltd., Saidristi Suitings P.Ltd., Sarvodya Suitings P.Ltd. और Sukh Sagar Synthetics P.Ltd के Purchase bill एवं Ledger Account प्रस्तुत करता हूँ ।

प्र.7 आपके द्वारा Finish fabrics के purchase bills प्रस्तुत किए गए हैं उनपर कोई payment or आपकी factory में उक्त माल के प्राप्त होने की कोई entry नहीं है । न ही कोई अन्य marking है जिसमें उक्त bills के माल की प्राप्ती prove हो सके । आपको एक और मौका दिया जाता है कि उक्त purchase के inward record प्रस्तुत करें ।

उ. हाँ, ये सत्य है कि मैंने जो बिल प्रस्तुत किये हैं उनपर कोई marking उनके payment का prove या inward register की कोई entry नहीं है पर हमने purchase register में entry किए हैं जो मैं आपको प्रस्तुत कर रहा हूँ । जिसमें इन बिलों की entry है । जिसका Total 15,00,04,069/- है इसके अलावा journal ledger आपको प्रस्तुत करता हूँ । माल की कम्पनी में आवक जावक register दिनांक 17.12.2018 को 3 बजे (अपराहन) प्रस्तुत कर दूँगा ।

प्र.8 अपाके द्वारा प्रस्तुत purchase bills or journal ledger एवं fabric purchase register को देखने पर पता चलता है कि निम्न parties के purchase bills, ledger और माल की आवक entry purchase register में नहीं की गई है।

- (i) Harsh Textile
- (ii) Jain Syntex
- (iii) Kashliwal Textile
- (iv) Kaveri Syntex
- (v) Poonam Synthetics P.Ltd
- (vi) Shree Govindam Textile

साथ ही आपके द्वारा उक्त फर्मों के purchase bill जिसका sample bill आपने कम्पनी के sub-mission dated 10/11/2018 में प्रस्तुत किए थे, अभी नहीं प्रस्तुत कर पा रहे हैं । कारण बतायें । उक्त फर्मों के ledger को आपने scrutiny के hearing में दिनांक 10/11/2018 को प्रस्तुत किए थे अभी आपकी ledger में नहीं प्रदर्शित है । कारण बतायें ।

उ.आज दिनांक 15/12/2018 के दिन जो कंपनी की purchase bill, journal ledger, finish purchase register आपके समक्ष प्रस्तुत किये हैं उसमें प्रश्न में वर्णित एक से छः party/firm के Bills, Ledger account एवं उनसे की गई purchase हमारे Finish purchase register में दर्ज नहीं की गई हैं जो सत्य है और मुझे मंजूर है । साथ ही Bills पर payment का या माल के आने का कोई entry नहीं लिखि गई है । Party :- Harsh Textile, Jain Syntex, Kashliwal Textile, Kaveri Syntex, Poonam Synthetics एवं Shree Govindam Textile के बिल अथवा अन्य record उपलब्ध नहीं है क्योंकि उपर वर्णित parties के बिल Bank Loan/Limit के कारण बनाये गये थे और ये parties की purchase

Books of Accounts में दर्ज की गई, नहीं इन *parities* से किसी प्रकार की *purchase* की गई है। जो *scrutiny* के समय आपको बिल प्रस्तुत किए वो गलती से लगा दिए। उन्हें निरस्त समझा जायें। क्योंकि ये बिल हमने *Bank Loan/Limit* के उद्देश्य से बनाये थे। हमारी कंपनी ने *Finish Goods purchase 15,00,00,069/-* की खरीदी की गई है जिसके *support* में *party* की *Detail* और *sale tax* की *return* जिसमें *total purchase* दर्शायी गई है हमारी *P&L* से मिलती है।

प्र.9 आपकी कंपनी के द्वारा *scrutiny Assessment* में अलग *Books of Accounts* का *Ledger, Purchase details* और *partywise ledger with quantity and Amount* दिया गया था जबकि आज की कार्यवाही के दौरान जो *Books of Account* प्रस्तुत कर रहे हैं वो भिन्न है प्रश्न नं.8 में दर्शायी गई *parties* से संबंधित *transactions* आज प्रस्तुत की गई *Books* में दर्ज नहीं है इससे यह तात्पर्य क्या न निकाला जाये की आपकी *Books of accounts reliable* नहीं है और आपके कंपनी के *business* की *True picture* प्रदर्शित नहीं होती हैं और *Book record fabricated* है। वास्तविक एवं सत्य नहीं है। इस स्थिति में आपके द्वारा प्रस्तुत *Book results* को धारा 145(3) के प्रावधान को ध्यान में रखते हुए क्या न *reject* किया जाये।

उ0. उक्त कथन स्वीकार्य नहीं है क्योंकि कुल खरीद *value* में कोई अन्तर नहीं है। इसके *support* में आज *Finish Purchase Register* और नीचे लिखी पार्टी के *Original bill* आपके समक्ष प्रस्तुत किये हैं

- (i) *Sarvodaya Suitings Ltd.*
- (ii) *Saidristi Suitings (P) Ltd.*
- (iii) *Maximum Synthetics (P) Ltd.*
- (iv) *Sukh Sagar Synthetics Pvt. Ltd.*

यही सत्य है। एवं हमारी कंपनी के वास्तविक *Finish Fabrics purchase* है जो कि *Books of Accounts* में दर्ज है और कंपनी के *Bank Account Statements* से मिलती हैं। अतः आप *Book Result* को स्वीकार करें एवं जो 5-6 पार्टी के नाम का अंतर है वो केवल *Bank Loan/Limit* के कारण आया है जिसका कारण मैंने उपर लिखे प्रश्न के जवाब में भी बताया है। अतः *Book Result Reject* नहीं किए जाए। मैं आपको बताना चाहता हूँ की पहले भी कंपनी का *Assessment 143(3)* में हुआ है और *Book Result* को स्वीकार किया गया है।

प्र.10 आपकी कंपनी के द्वारा *scrutiny* की *hearing* के दौरान अलग *Books of Accounts* के *Ledger* और *Quantity Details* दी गई जबकी आज आप अलग *Ledger, Bills* एवं *Quantity Details* प्रस्तुत कर रहे हैं तो ये क्या न समझा जाए की आपकी कंपनी दो अलग-अलग *Books of Accounts maintain* करती हैं

उ. नहीं यह सत्य नहीं है।

प्र.11 आपके द्वारा कंपनी के *Daily Production Record, Daily Reports, Gate entry register, daily Stock register* एवं *production, sale, purchase* का *quantity verification Record* प्रस्तुत नहीं किया गया है। कारण बतायें।

उ0. ये *record* हम *Maintain* करते हैं परन्तु आज प्रस्तुत नहीं कर पा रहे हैं।

प्र.12 आपने दिनांक बार *Finish Purchase Register* प्रस्तुत किया है जिसके अनुसार आपने वित्त वर्ष 2015-16 में कुल 12,72,026.17 मीटर माल *Rs.15,00,44,069/-* में खरीदा है जिसकी औसत क्रय मूल्य *रु.117.96* प्रति मीटर आता है। इस संदर्भ में आपने दिनांक 29/11/2018 के

Reply में कम सं.8(iii) में बताया की Finish Fabric का Valuation औसत कय मूल्य पर किया जाता है, जबकि Assessment year 2016-17 की आयकर विवरणी में आपने Finish Fabric के Closing Stock में कुल 4,59,150 मीटर माल, जिसका मूल्य P&L A/c में रु. 4,49,96,727/- दर्शाया है जिसका औसत कय मूल्य रु.98 प्रति मीटर आता है । अतः इसमें आपने Finished Fabrics के Closing stock का अवमूल्यन किया है । यदि माहवार Average Purchase cost भी देखी जाये तो March माह में खरीदा गया Finished Fabrics लगभग रु.150/- मीटर औसत आता है कृपया स्पष्टीकरण दे ।
उ० जितना भी Finish Fabrics Purchase है वह lump के रूप में हुआ है । उसके बाद इसको विक्रय करने के लिये grading करना पडता है । Lump, TL, सफारी Fenta, Rags, Good Cut एवं last wastage इस प्रकार करीब-करीब 15 से 20% value less हो जाता है । अतः जो Lump रु.117 प्रति मीटर आता है वो औसत दर रु.90/- से 99/7 के बीच हो जाती है, इसको value less कहते है और जब Finish Stock का value करते है जो Stock उपरोक्त सभी Form में होता है । इस प्रकार Average rate Applicable की जाती है न की केवल Lump की । यह नियम synthetics Business में सभी जगह लागू होता है । अतः इस प्रकार value किया जाता है उसे accept किया जाए । Stock valuation का यह Method प्रति वर्ष follow किया जाता है ।

प्र०13 आपकी कम्पनी द्वारा scrutiny assessment में Finish Fabric purchase का ब्योरा दिया था जिसमें निम्न फर्मों से Finish purchase की Detail निम्न है :-

फर्म का नाम	Quantity Purchase	Amount
(i) Harsh Textile	112859.55	1,36,,28,298/-
(ii) Jain Syntex	81814.15	97,35,883/-
(iii) Kashliwal Textile	114052.10	1,45,98,680/-
(iv) Kaveri Synthetics	73139.15	89,22,977/-
(v) Poonam Synthetics	80747.25	1,00,12,663/-
(vi) Shree Govindam Textile	180794.65	2,13,97,050/-
	<u>6,43,406.85</u>	<u>7,82,95,551/-</u>

आपकी कम्पनी द्वारा आज प्रस्तुत Books of Accounts एवं Purchase Register में ऊपर लिखित पार्टी से की गई रु.7,82,95,551/- की खरीदी दर्ज नहीं की गई है । कृपया स्पष्ट करे की उक्त खरीदी को out of book cash purchase एवं बेचान क्यों नहीं माना जाये ।
उ०. यह सत्य नहीं है हमने कम्पनी की कुल purchase का Data आपको प्रस्तुत कर दिया है इन पार्टी का नाम Bank Lona/Limit के कारण बनाया गया था । Total Purchase की detail आपको दी, वह हमारे P&L से मिलती है और कुल खरीदी हमारे P&L, Sale Tax Return और details में दी गई है उससे मिलान खाती है । अतः हमारी कंपनी में कोई cash purchase नहीं की है ।

Thus, Shri Azad Sharma in his statement had also stated that the purchases of Rs. 10,00,68,034/- was made from Maximum Synthetics Pvt. Ltd. and this purchases was bifurcated in seven parties name only for obtaining loan/ limit from bank. The payments against the purchases of Rs. 10,00,68,034/-was also made only to Maximum

Synthetics Pvt. Limited. The total purchases of Rs. 7,82,92,551/- shown to have been made from the above referred six parties are appearing in the account of M/s Maximum Synthetics Pvt. Ltd. also. In other words, purchases of Rs. 7,82,92,551/- and payment against these purchases from the above referred six parties were appearing in the account of Maximum Synthetics Pvt. Limited.

I am of the considered view that the AO can not take the purchases of Maximum Synthetics Pvt. Ltd. at Rs. 10,00,68,034/- as appearing in the books of accounts of the appellant, (though in the partywise list of purchases, the purchases from Maximum Synthetics Pvt. Ltd. were shown at Rs. 2,17,72,483/- only) and also treat the purchases of Rs. 7,82,95,551/- from above referred six parties as unaccounted purchases of the appellant. When the purchases and payments shown against the name of above referred six parties are the same as appearing in the account of Maximum Synthetics Pvt. Ltd. then I am of the view that there is no justification for rejecting the explanation of the appellant that the purchases of Rs. 10,00,68,034/- made from Maximum Synthetics Pvt. Ltd. were bifurcated in the name of seven parties only for the purpose of obtaining loan/ limit from the bank. The AO can not take some figures (purchases of Rs. 7,82,95,551/- from the non-existent six parties referred above) and other figures from list of partywise purchase submitted on 10.11.2018 (purchases of Rs. 10,00,68,034/- from Maximum Synthetics Pvt. Ltd.) as appearing in the books of accounts of the appellant. In view of the facts discussed above, I am of the considered view that the explanation of the appellant that purchases of Rs. 7,82,95,551/- shown against the name of above referred non-existent six parties in the partywise purchases submitted along with letter dated 10.11.2018 was in fact bifurcation of the total purchases

of Rs. 10,00,68,034/- from Maximum Synthetics Pvt. Limited only, cannot be rejected. Therefore, the addition of Rs. 7,82,95,551/- made by the AO, holding that the appellant had made purchases of Rs. 7,82,95,551/- out of books of accounts from the above referred non-existent six parties is hereby deleted.

As the addition of Rs. 7,82,95,551/- made by the AO in respect of unexplained investment in purchases has already been deleted, therefore, the addition of Rs. 1,23,87,853/- made by the AO on account of sale of the unaccounted purchases of goods of Rs. 7,82,95,551/- is also deleted."

8. From perusal of the record, we noticed that the entire addition made by the AO is on the basis of purchase details of finished fabrics above Rs.1,00,000/- submitted by the assessee vide letter dated 09.11.2018 along with the ledger account and sample bills. In this letter details of 10 parties from whom purchase of finished fabrics was made is given. This list includes name of six parties from whom no purchases were in fact made. Rather the purchases made from M/s Maximum Synthetics Pvt. Ltd. of Rs.10,00,68,034/- was bifurcated in the name of these six parties as explained vide letter dated 21.12.2018 and the details of the same are already mentioned in earlier paragraph of this order.

9. We also observe from the record that quantity and the amount of purchases made from M/s Maximum Synthetics Pvt. Ltd. is duly recorded in the regular books of accounts and the same is also supported by the stock

records. Only for the bank purpose, purchase is shown to the banker in seven names including M/s Maximum Synthetics Pvt. Ltd. as the assessee was under the apprehension that if purchase from one party of Rs.10 cr. is shown to the bank it may lead to adverse opinion from the bankers for grant of limit inasmuch as the banker may take a view that assessee is mainly dependent on purchases from one supplier only and therefore the said bifurcation was provided to the bank which was also submitted to the AO but the fact remains is that no purchase is made from these six parties and therefore, the same is not part of books of accounts.

10. We observe that the assessee has not made purchases from these six parties is also independently verified by the AO by recording the statement of accountant Azad Sharma, which is at page No. 53 to 65 of the paper book. In this statement he has stated as under: -

- (i) The bills of these six parties are not entered in the books as bills and records of these parties were prepared only for bank limit purpose. No purchases are made from these parties (reply to Q.No.8).
- (ii) There is no difference in total purchases. The same are duly supported by finish purchase register and original bills. The same are tallied with the bank statement. The difference of six parties is only due to bank loan/limit purpose (reply to Q.No.9).
- (iii) The details of these parties are prepared for bank loan purpose. The total purchases tally with the profit & loss account and

sales tax return. No cash purchases are made (reply to Q.No.13).

The above statement recorded has not been controverted by the AO by bringing any adverse material against the assessee. In fact before drawing adverse conclusion against the assessee, AO has not made any enquiry to know about the existence of these parties. Therefore, simply on surmises and conjectures it can't be presumed that assessee has fabricated the books of accounts and made cash purchases from these six parties which is not recorded in the books of accounts.

11. We also observe that the assessee has not made purchases from these six parties rather the purchase made from M/s Maximum Synthetics Pvt. Ltd. has been bifurcated in the name of these six parties is evident from the fact that payment for purchases recorded in the ledger account of these six parties are in fact made to M/s Maximum Synthetics Pvt. Ltd. as is evident from its ledger account in the books of accounts. This fact is also verified by the AO by calling the bank statement of the assessee from the banker u/s 133(6) of the Act where it is verified that the payment reflected against these six parties are made in the account of M/s Maximum Synthetics Pvt. Ltd. This fact proves that no purchases is made from these six parties but only for bank purpose, the purchase made from M/s Maximum Synthetics Pvt. Ltd. was partly shown in the name of these six

parties. However, taken together, both the quantity and value of purchases shown to the bank is duly recorded in the regular books of accounts of the assessee. Hence, there is no basis with the AO to presume that assessee has made cash purchases out of books from these six parties which is also sold out of books.

12. We further observe that in the present case, assessee has not incurred any expenditure on purchase from these six parties. This fact was cross verified by the AO by taking statement of the accountant. Further the source of payment made to them in the ledger account is duly recorded in the books in the ledger account of M/s Maximum Synthetics Pvt. Ltd. as verified by the AO from the bank statement called u/s 133(6). The AO has not brought any evidence on record to prove that assessee has made any cash payment to these six parties. He has also not made any enquiry from these parties to hold that assessee has made cash payment. Hence, without discharging the burden casted u/s 69 of the Act on the AO and by simply rejecting the explanation of assessee, addition made by AO u/s 69 is unjustified. Considering the totality of facts and circumstances of the case, we observe that the Id. CIT(A) has passed a reasoned and speaking order in deleting the additions so made by the A.O., therefore, we do not find any

reason to interfere in the order of the Id. CIT(A) qua this issue. Accordingly, we uphold the same.

13. In the result, this appeal of the Revenue is dismissed.

Order pronounced under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1962 by placing the details on the notice board.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Dated : Jodhpur
Dated 01/02/2021
*Ranjan
Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT (A)
5. The DR
6. Guard File

Assistant Registrar
Jodhpur Bench