

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
MS. KAVITHA RAJAGOPAL, JM

ITA No. 149/Mum/2022
(Assessment Year 2011-12)

M/s Shreeji
76/2, Gomes Chawl,
1st Road, Old Khar (W),
Mumbai 400 052

Vs.

The Income Tax Officer,
Ward 22(3)(3)
Room No. 320,
3rd Floor, Income Tax Office,
Piramal Chambers,
Lal Baug, Parel
Mumbai 400 012

(Appellant)

(Respondent)

PAN No. AACFS3003K

Assessee by : Shri Pinak Nandu, AR
Revenue by : Shri Hoshang B Irani, DR

Date of hearing: 26.05.2022
Date of pronouncement : 31.05.2022

ORDER

PER PRASHANT MAHARISHI, AM:

01. This appeal is filed by the assessee against the order passed by National Faceless Centre, [the learned CIT(A)] for Assessment Year 2011-12 dated 30th November, 2021. The solitary issue raised by the assessee is an addition of ₹1,07,782/- under section 69C of the Income Act, 1961 (the Act) as well as reopening of the assessment.
02. The fact shows that the assessee is trading in garments as a partnership firm. It filed its return of income on 8th September, 2011, for ₹1,87,480/-. Subsequently, the information was received from Sales Tax Department,

which was forwarded to the learned Assessing Officer by DGIT (Investigation), Mumbai that assessee has taken an accommodation bills for purchase from M/s Vinit Enterprises amounting to ₹1,07,782/-. Therefore, the learned Assessing Officer issued notice under section 148 of the Act on 29th March, 2018. In response to the notice, the assessee submitted that original return filed may be treated as return in response to the above notice. Subsequently, the show cause notice was issued and found that assessee has made total purchase of ₹88,33,174/- out of which a purchase amounting to ₹1,07,782/- is from M/s Vinit Enterprise. M/s Vinit Enterprise was one of the suspicious dealers, who have issued only the bills without actual delivery of goods. The assessee was asked about the above purchase. The learned Assessing Officer also issued notice under section 133(6) of the Act to the above party, which could not be served by Postal Authorities as the party left the place. The learned Assessing Officer also deputed an inspector to make the enquiry but it did not result into any further information about the existence of that party. The assessee submitted that it has furnished all the information available with it and is not able to produce the above party. The assessee agreed that gross profit percentage at the rate of 14.14% on the above purchase can be added for which assessee does not have any objection. The learned Assessing Officer rejected the contention of the assessee and made a total addition of ₹1,07,782/-. Accordingly, the assessment order under

section 143(3) read with section 147 of the Act was passed on 29th December, 2018 at a total income of ₹2,95,260/-.

03. Assessee preferred the appeal before the learned CIT(A) i.e. National Faceless Appeal Centre (NFAC). The order of the learned Assessing Officer was confirmed by the learned CIT(A) and therefore, assessee is in appeal before us.
04. At the time of hearing, one Shri Pinak Nandu appeared before us stating that he is partner of the assessee firm and requested for adjournment. The learned Departmental Representative submitted that the issue involved is small and therefore, may be decided on the merits of the case.
05. We have carefully considered the rival contention and perused the orders of the lower authorities. We find that the assessee has purchased goods worth ₹80,33,124/- in its business of trading in garments. Assessee is carrying retail business of dresses. The Sales Tax Authorities intimated to the DGIT (Investigation), Mumbai that assessee has shown purchase of ₹1,07,782/- from M/s Vinod Enterprises which is found to be an accommodation entry provider as per Sales Tax Department of Govt. of Maharashtra. The case of the assessee was reopened and learned Assessing Officer made an addition of ₹1,07,782/- being 100% of the bogus purchases as income of the assessee. During the course of assessment proceedings, assessee submitted that it purchased goods from the above party through proper tax invoice, payments have

been made by account payee cheques. Copies of the delivery challans and corresponding sales statement against the above purchase showing the quantity, name of sale parties and amount, etc., were also produced. Therefore, it is apparent that assessee has sold goods which were mentioned in the purchase invoice of M/s Vinit Enterprises. The sales of the assessee remain undisputed. Further, the assessee has shown gross profit of 2.12 % already on such sales. During the course of assessment proceedings, the assessee also claimed that as the purchase have gone into resultant sale proceeds, 100% of such purchase cannot be added to the total income of the assessee. The assessee offered that 15% of the income can further be attributed to above transaction then, to buy peace the assessee agrees to the same. We find that when the goods involved in such bogus purchases have gone into the sales recorded by the assessee in the books of account and is also resultant profit therefrom has also been offered for taxation, the addition of bogus purchases, without disputing the sale, cannot be made to the extent of 100%. In view of this, in the interest of justice, we find that 15% of the bogus purchases are adequate and reasonable as income of the assessee, the consequent profit arising from bogus purchases is correctly taxed. Therefore, we reverse the orders of the lower authorities making 100% addition on account of bogus purchases of ₹1,07,782/- and instead of that direct the learned Assessing Officer to retain only the addition to the extent of 15% thereby amounting to ₹16,167/-. In the result, the appeal



of the assessee with respect to ground no.4 of the appeal is allowed. As we have already granted the relief on ground no.4, as pleaded by assessee ground nos. 1 to 3 of the appeal becomes infructuous hence, dismissed.

06. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 31.05.2022.

Sd/-
(KAVITHA RAJAGOPAL)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 31.05.2022

Sudip Sarkar, Sr.PS

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.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai