

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
'A(SMC)' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)  
&  
Shri Manish Borad, Accountant Member**

**I.T.A. No. 490/KOL/2020  
Assessment Year: 2012-2013**

***Super Trading Company,.....Appellant***  
***909, Himadri,***  
***22, Ballygunge Park Road,***  
***Kolkata-700019***  
***[PAN: AAMFS4597E]***  
***-Vs.-***

***Income Tax Officer,.....Respondent***  
***Ward-30(3), Kolkata,***  
***2, Gariahat Road (South),***  
***Kolkata-700068***

**Appearances by:**

*No one, appeared on behalf of the assessee*  
*Shri Anindya Kumar Bandopadhyay, Addl. CIT, appeared on behalf of the Revenue*

**Date of concluding the hearing : July 21, 2022**  
**Date of pronouncing the order: August 25, 2022**

**O R D E R**

**Per Rajpal Yadav, Vice-President (KZ):-**

The assessee is in appeal before the Tribunal against the order of the Id. Commissioner of Income Tax (Appeals)-8, Kolkata dated 25.11.2019 passed for the assessment year 2012-13.

2. The assessee has taken three grounds of appeal, out of which Grounds No. 2 & 3 are general ground, which do not call for recording off any finding.

3. In Ground No. 1, the assessee has submitted that the Id. CIT(Appeals) has erred in confirming the addition of Rs.26,74,050/-. In response to the notices of hearing, no one has come present on behalf of the assessee. A perusal of record would suggest that

this appeal is on the Board since 23.11.2020. Time to time, notices were issued to the assessee through Registered Post and on the record copies of which are available alongwith the RPAD and every time remark of the Postal Authority is :

***“No such party is available in the address- LEFT”.***

No other address has been communicated by the assessee to the Tribunal and, therefore, we deem it appropriate to proceed to dispose of the appeal *ex-parte qua* the assessee.

4 . The Registry has pointed out that the appeal is time barred by 211 days. The assessee has filed an application for condonation submitting therein that the impugned order was passed on 12.12.2019 before the lockdown and was put in operation after expiry of time limit due to lockdown and other issues of COVID. The appeal could not be filed at an early date and ultimately filed in September, 2020. Considering the above explanation of the assessee and keeping in mind the general direction issued by the Hon'ble Supreme Court for not to come to the period of limitation for the purpose of filing appeals during the period of March, 2020 to March, 2022 (roughly), we condone the delay and proceed to decide the appeal on merit.

5. On merit, the solitary grievance of the assessee is that the Id. CIT(Appeals) has erred in confirming the addition of Rs.26,74,050/-.

6. Brief facts of the case are that the assessee has filed its return of income on 28.09.2012 declaring total income of Rs.3,46,112/-. The assessee at the relevant time was engaged in the business of manufacturing of Synthetic Picking Bands and Trading in Nylon items. During the course of scrutiny assessment, it came to the notice of Id. Assessing Officer that the assessee has debited purchases of Rs.26,74,050/- against the name of M/s. Vijaypath Vincom Pvt. Limited. In order to verify the purchases, the Id. Assessing Officer directed the assessee to file a confirmation and thereafter the Id. Assessing officer has carried out an exercise and held that these are the bogus purchases claimed by the assessee in the accounts. The finding of the Id. Assessing Officer reads as under:-

*“4. It is seen that the assessee's Firm purchased goods from various parties. Accordingly notices u/s 133(6) was issued to the parties for*

*confirmation. One of the parties to whom notices were issued, M/s, Vijaypath Vincom Pvt. Ltd could not be traced out. The amount of purchase was Rs. 26,74,050/-. At the time of issue of Notice, the address of M/s, Vijaypath Vincom Pvt. Ltd shown as 3A, Pollock Street, Ground Floor, Kolkata-700 001. The assessee Firm In their letter dtd. 18.03.201 5 requested to send the notice to M/s, Vijaypath Vincom Pvt. Ltd shown as 3A, Pollock Street, Ground Floor, Kolkat-700 001 instead the PIN CODE Kol kata-700 003. But, incidentally, the postal department itself changed the PIN CODE from Kolkata-700 003 and redirected the same to Koikata-700 001 and finally could not be served the Notice with comment "LEFT" as superscribed on the Cover of the Notice. However, Again, inspector, attached to this office was deputed to serve the Notice u/s 133(6) of the I..T. Act, 1961 on the party but could not find the party at the address given by the Assessee's Firm vide. Letter dtd. 18.03.201 5. Consequently, as per I.T. Act, summon was issued u/s-1 31 of the I.T. Act, 1 961 to appear with the party with required documents to confirm the purchase by the Assessee Firm. On 18.03.201 5 the assessee requested for 3 (three) days time to make the party appear. As more than 7 (Seven) working days have elapsed and there is rio compliance, it is obvious that there is no existence of the party and bogus purchased was debited in the Profit and Loss Account to lowering down the Net profit as booked in the Profit & Loss Account. To prove the genuineness of the above mentioned transactions with the parties, the onus is squarely lies with the assessee. It is held by the Rajasthan High Court in the case of Indian Wollen Carpet factory, that if the assessee is having failed to prove the genuineness of purchases by producing the parties from whom the purchases are said to have been made and whose whereabouts are not known, basically a question of fact is that whether transactions with the parties referred as above is genuine or not. If the transaction is genuine and if the parties have shifted somewhere else, their latest address should have been supplied and burden is on the assessee to prove the genuineness of transaction, when the assessee claimed that the purchases are genuine. As per discussion of above the bogus purchase amounting to Rs.2674Q50/- is added back to the total income of the Assessee Firm".*

Apart from the above, the Id. Assessing Officer has made an addition of Rs.15,08,049/- on account of disallowance of interest expenditure.

7. On appeal, the Id. CIT(Appeals) has confirmed the addition *qua* bogus purchases but deleted the addition on account of disallowance of interest expenditure.

8. As observed earlier before us, the only issue relates to disallowance of purchases. A perusal of the assessment order would indicate that the Id. Assessing Officer has carried out an exercise and tried to locate the entity through whom purchases were claimed. The assessee failed to submit such details, though we

concluded the hearing *ex-parte* but a thought struck to our mind, whether total purchases could be added or not? In this regard, we find that there are large numbers of orders available on this issue by the Tribunal as well as by the Hon'ble High Court. In all these orders, it has been observed that if an assessee is maintaining complete details of the traded items, then total amount of purchases should not be disallowed. It can be explained by way of example, namely an assessee is trading iron rods, gudder patty, etc. It has been maintaining the complete details of purchases and sales on some investigation, it can be revealed that the assessee has shown purchases from 'A' but actually procured the material from 'B'. In this exercise, the assessee might have saved Excise Duty etc. The sale figure could not be achieved, if the material was not sourced from any other concern, but no such details are available before us. The assessee has neither produced these details before the Id. Assessing Officer that in the accounts it might have debited the purchases *qua* M/s. Vijaypath Vincom Pvt. Limited but actually procured the material from 'X', 'Y', 'Z' concern. If that factor has been proved demonstrating the complete details of purchases as well as sales, then 100% of the purchases by terming it as bogus could not be added. In the absence of these details, we do not have any option except to confirm the orders of the revenue authorities. Accordingly, we dismiss the appeal of the assessee.

**9. In the result, the appeal of the assessee is dismissed.**

Order pronounced in the open Court on August 25, 2022.

Sd/-

Sd/-

**(Manish Borad)**  
**Accountant Member**

**(Rajpal Yadav)**  
**Vice-President (KZ)**

***Kolkata, the 25<sup>th</sup> day of August, 2022***

*Copies to :* (1) ***Super Trading Company,***  
***909, Himadri,***  
***22, Ballygunge Park Road, Kolkata-700019***

(2) ***Income Tax Officer,***  
***Ward-30(3), Kolkata,***  
***2, Gariahat Road (South), Kolkata-700068***

(3) ***Commissioner of Income Tax(Appeals)-8, Kolkata;***

- (4) *The Departmental Representative*  
(5) *Guard File*

*TRUE COPY*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

*Laha/Sr. P.S.*