

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F', NEW DELHI**

**Before Sh. Saktijit Dey, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 8464/Del/2019 : Asstt. Year : 2011-12**

DCIT, Circle-20(2), New Delhi-110002	Vs	R. S. Triveni Foods Pvt. Ltd., F-1739, DSIIDC Industrial Area, Narela, New Delhi-110040
(APPELLANT)		(RESPONDENT)
<b>PAN No. AAFCR1392A</b>		

**Assessee by : Sh. Suresh Gupta, CA**

**Revenue by : Sh. Shankar Gupta, Sr. DR**

**Date of Hearing: 04.07.2022**

**Date of Pronouncement: 29.08.2022**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT(A)-7, New Delhi, dated 07.08.2019.

2. The case of the assessee with regard to reopening of assessment is a fall out of the finding of the search conducted in the case of M/s Shakti Bhog Food Ltd. During the search, Sh. Kewal Krishan Kumar admitted that he has indulged in giving bogus bills of purchases to M/s Shakti Bhog Food Ltd. It was admitted that Sh. K.K. Kumar has given entries at the behest of Sh. Devki Nandan Aggarwal (Prop. M/s Lachhu Ram Aggarwal & Co.) and Sh. Balbir Kumar (Prop. Divya Enterprises).

3. Since, the assessee has also had transactions of purchases with Sh. Devki Nandan Aggarwal (Prop. M/s Lachhu Ram Aggarwal & Co.) to the tune of Rs.5.05 Cr., the same has been treated as bogus by the Assessing Officer. While passing the

order, the observations of the Assessing Officer are reproduced as under for ready reference:

*"3.2 In response to above, assessee filed its reply by hand which is part of record. Assessee in his reply tried to justify the modus operandi of the business, where a "Kacha Ahartiyas" make cash purchase from the farmers and later sell it to the mill owners and M/s Lachhu Ram Aggarwal is nothing but a "Kacha Ahartiyas", but assessee failed to justify the genuineness of the transactions done with M/s Lachhu Ram Aggarwal. Sh. Devki Nandan Agarwal was issued a summon on 30.11.2018 and he did not present himself before the undersigned till date. In the light of the above, it is clear that the undersigned has no reasons to deviate from the factual findings which are already part of the record, as reproduced in foregoing paras, and confronted to the assessee during the course of assessment proceedings.*

*3.3 Thus, the accommodation entry received by the assessee company during the year A.Y. 2011-12 of Rs. 5,05,41,311/- in the guise of bogus purchases is being added to the total income of the assessee. Further, as discussed above in the assessment order, I am satisfied that the assessee has concealed his particulars of income and accordingly Penalty proceedings u/s 271 (1)(c) of the Act are being initiated for concealment of true particulars of income."*

4. Aggrieved, the assessee filed appeal before the Id. CIT(A) wherein the addition made by the Assessing Officer is deleted.

5. The revenue filed appeal before us.

6. Heard the arguments of both the parties and perused the material available on record.

7. On the merits of the issue, we find that:-

8. The case of the Assessing Officer:

1. Sh. Kewal Krishan Kumar, Sh. Balbir Kumar and Sh. Devki Nandan Aggarwal involved in giving the entries of bogus purchase to M/s Shakit Bhog Group and they have also had transactions with the assessee and the same is treated as bogus.
2. Sh. Devki Nandan Aggarwal has not responded to the notice issued u/s 131, hence, adverse inference has been drawn.
3. Relied on the inquiries and investigations conducted by the DDIT(Inv.)

9. The facts considered by the Id. CIT(A):

1. The reassessment proceedings were initiated on the grounds that the purchases made from Sh. Kewal Krishan Kumar (M/s Keshav Trading Company) of Rs.5.79 Cr. and from Sh. Devki Nandan Aggarwal (Prop. M/s Lachhu Ram Aggarwal & Co.).
2. The purchases from Sh. Kewal Krishan Kumar (M/s Keshav Trading Company) have been accepted by the department in the course of reassessment proceedings initiated on the basis of same very reason in the hands of erstwhile partnership firm of the assessee M/s Triveni Industries.
3. Vide order date 27.07.2017 passed u/s 147 Sh. Kewal Krishan Kumar (M/s Keshav Trading Company) have been accepted as "Kacha Ahartiyas" wherein after depositing of

cheques from the buyers, cash payment was made to agriculturist after withdrawing cash from bank.

4. The stock register has been produced wherein no discrepancies in purchase, sale and the closing stock has been brought out.
  5. Since the inward stocks entries have been duly recorded and sale of finished products has also been recorded and since the closing stock tallied it cannot be said that the purchases are bogus.
  6. There is no material to prove that Sh. Devki Nandan Aggarwal (Prop. M/s Lachhu Ram Aggarwal & Co.) himself has provided accommodation entries.
  7. Relied on the decision of the Id. CIT(A)-13, New Delhi in the case of Ghanshyam Das for the A.Y. 2010-11, A.Y. 2011-12 and A.Y. 2012-13 (Appeal No. 310 to 313 dated 26.12.2017) wherein the purchases from Sh. Devki Nandan Aggarwal (Prop. M/s Lachhu Ram Aggarwal & Co.) were undoubted.
10. We have examined in detail the decisions of both the authorities. We have gone through the order of the Sh. Ghanshyam Das passed by the Id. CIT(A) and the ratio thereof. Further, we have examined the copy of stock register of "Masoor" and "Dal Masoor" purchased from Sh. Devki Nandan Aggarwal (Prop. M/s Lachhu Ram Aggarwal & Co.) and the payment made thereof. We have also examined the purchase bills and the purchase register and quantitative details of Masoor and Dal Masoor purported to have been purchased from Sh. Devki Nandan Aggarwal (Prop. M/s Lachhu Ram Aggarwal & Co.). The quantitative details of the sale & purchase indicate that there could not have been sale in quantity in the absence of the corresponding quantity. Further, we have perused the

judgment of Co-ordinate bench of ITAT in the case of DCIT Vs. Amar Chand Gupta in ITA Nos. 3401 to 3406/Del/2009. No specific evidences have been brought on record with regard to the transaction done by the assessee in relation to D.N. Aggarwal to prove that the transactions are bogus. Hence, keeping in view, the entire factum, we decline to interfere with the order of the Id. CIT(A) in treating the purchases made from Sh. Devki Nandan Aggarwal (Prop. M/s Lachhu Ram Aggarwal & Co.) as no different from the purchases made from other regular parties.

11. In the result, the appeal of the Revenue is dismissed.  
Order Pronounced in the Open Court on 29/08/2022.

Sd/-

**(Saktijit Dey)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 29/08/2022**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**