

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

BEFORE SHRI KULDIP SINGH (JUDICIAL MEMBER)

I.T.A No.2305/Mum/2022  
(Assessment Year 2013-14)

M/s Lifeline Technologies Plot No. C-121, TTC Industrial Area, MIDC Pawane, Navi Mumbai-400 705 <b>PAN : AAHFA1108L</b>	vs	Assistant Commissioner of Income Tax, Circle 18(3), Mumbai. 6 <sup>th</sup> Floor, Earnest House, Nariman Point, Mumbai-400 021
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Assessee represented by	Shri Rashesh Patel
Revenue represented by	Shri Rajendra Chandekar

Date of hearing	03/11/2022
Date of Pronouncement	03/11/2022

**ORDER**

The Appellant, M/s Lifeline Technologies (hereinafter referred to as the 'assessee') by filing the present appeal, sought to set aside the impugned order dated 18/06/2022 passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the 'CIT(A)'] qua the assessment order for Assessment Year 2013-14, on the effective ground interalia that:-

- "1. The Order passed by the Ld CIT(A) is opposed to law and contrary to the facts and circumstances of the case and is therefore unsustainable.*
- 2. The Ld. CIT(A) has erred in confirming the disallowance for the purchases amounting to Rs.901,550V- terming it as bogus without considering the fact that the purchases made from the party are accounted in the books of the appellant and the payment for the same have been made through account payee cheque.*
- 3. The Ld. CIT(A) failed to consider the fact that the appellant has produced proper invoices and delivery challans for the purchases made from M/s Balaji Trade Links & JMD Organics.*

4. *The Ld. CIT(A) has erred in disallowing the purchases alone terming it as bogus without effectuating the turnover. When the purchases are disallowed terming it as bogus, then the corresponding turnover also to be adjusted accordingly.*

5. *The Ld. CIT(A) mentioned that the appellant was involved in hawala transaction and just produced accommodation bills without actual delivery is not valid in case of the appellant. ^*

6. *The Ld. CIT(A) confirmed the adhoc disallowance to the extend of 100% of total purchases which is not justifiable as there is no basis for such calculation.*

7. *The Ld. CIT(A) failed to consider the total purchases of the whole year which amounts to Rs.2,26,49,3167- out of which the above purchases are of only Rs. 9,01,550/on which supplier has not paid tax and Sales tax department has considered the same as hawala purchases.”*

2. Briefly stated, facts necessary for adjudication of the issues at hand are – initial assessment in this case was framed under section 143(3) of the Act on 28/03/2010 at Rs.13,99,670/-. The Assessing Officer noticed from the P&L and tax audit report for the year ending 31/03/2013 that the assessee has debited remuneration paid to partners at Rs.20,76,507/-, which are not allowable under section 40(b) of the Act. Assessing Officer also noticed that the tax auditor, in his audit report also stated that remuneration paid to the partner of Rs.20,76,507/- is inadmissible as per provisions of section 40(b) of the Act. Since the assessee has claimed the remuneration paid without any supporting documentary evidence, Assessing Officer reopened the assessment by initiating the proceedings under section 147 / 148 of the Act. Declining the contention raised by the assessee, Assessing Officer proceeded to make an addition of Rs.20,76,507/- and thereby framed assessment under section 143(3) r.w.s. 147 of the Act. Assessee carried the matter before Ld.CIT(A), who has dismissed the appeal. Feeling aggrieved, assessee has come up before the Tribunal by way of filing present appeal.

3. I have heard the Ld.DR for the Revenue, perused the documents available on record, in the light of the settled principles of law.

4. At the very outset, I have observed from the impugned order passed by Ld.CIT(A) that in the head note of the impugned order prepared in the tabulated form, present appeal is filed by the assessee against the order dated 28/11/2019 under section 143(3) r.w.s. 147 of the Act from which I have gathered the facts narrated in the preceding paragraphs. However, from the first para of the impugned order, Ld.CIT(A) opted to take up the facts of the assessment order passed in case of assessee vide order dated 18/03/2013 under section 143(3) of the Act. Again at para 2 of the impugned order, Ld.CIT(A) referred to the return of income for A.Y. 2010-11 efiled on 25/08/2010 declaring total income of Rs.19,71,340/-, and the assessment was completed under section 143(3) on 18/03/2013 at the total income of Rs.28,72,890/- by making addition of Rs.9,01,550/- towards bogus purchases. These facts are patently wrong as assessee's initial assessment under section 143(3) was completed vide order dated 28/03/2016 for A.Y. 2013-14 at the total income of Rs.13,99,670/-.

5. The Ld.CIT(A) at para 3 of the impugned order extracted the grounds of the assessee as under:-

**"3. Grounds of Appeal:**

Assailing the order of the Assessing Officer, the appellant preferred this appeal and raised the following grounds.

"As stated in order sheet of your honour, we are able to submit the proof of Octroi receipts and purchase invoices which states that material has actually come to our factory and consumed in our factor.

The sale of same has also been accounted in our books of accounts.

We therefore request you to consider the same and oblige."

Aforesaid para 3 goes to prove that even ground raised by the assessee has not come on record. Findings returned by the Ld.CIT(A) qua bogus purchases were never the subject matter of assessment order dated 27/12/2019 passed

under section 143(3) read with section 147 of the Act, which was not under challenge before him as is evident from the head note of the impugned order.

6. I am of the considered view that may be due to inadvertence, Ld.CIT(A) has misdirected himself to decide the appeal vide impugned order on wrong facts belonging to some other case because in the assessment order passed under section 143(3) r.w.s. 147(supra), bogus purchases was never its subject matter. Even Ld.AR for the assessee failed to reconcile facts as the impugned order has been passed by Ld.CIT(A) by importing facts of some other case. In these circumstances, this bench has no option except to remand the case back to the Ld.CIT(A) to decide afresh after providing opportunity of being heard to the assessee. Resultantly, appeal is allowed for statistical purpose.

Order pronounced in the open court on 03/11/2011.

Sd/-

(KULDIP SINGH)  
JUDICIAL MEMBER

Mumbai, Dt : 03<sup>rd</sup> November, 2022

Pavanan

Copy to :

1. The appellant
2. The respondent
3. The CIT concerned
4. The CIT(A)
5. DR,SMC Bench
6. Guard File

(True copy)

By order

Dy.Registrar / Asstt.Registrar  
ITAT, Mumbai Benches