

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.72/Asr/2019
Assessment Years: 2007-08**

M/s Kashmir Palace ,Abikarpura, Srinagar. [PAN:-AADFK6506E] (Appellant)	Vs.	ITO, Ward-3(2), Srinagar. (Respondent)
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Appellant by	Sh. Upender Bhat, CA.
Respondent by	Sh.RajivWadhera, Sr.DR.

Date of Hearing	10.11.2022
Date of Pronouncement	15 .11.2022

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal of the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)-2, Amritsar, [in brevity the Id. CIT(A)] bearing appeal no.10075/2017-18, date of order 30.11.2018, the order passed u/s 250 (6)of the Income Tax Act 1961, [in brevity the Act] for A.Y. 2007-08. The impugned order was emanated from the order of the Id. Income Tax Officer, Ward-

3(2), Srinagar, (in brevity the AO), order passed u/s 143(3)/147 of the Act date of order 23.03.2015.

2. Brief fact of the case is that the assessee is a businessman and trader of art and craft. The expenditure was debited during the assessment year in the P & L a/c amount of Rs. 58,85,437/-. Out of the total purchase amount of Rs.9,36,000/- was made from the concern namely, M/s New Planet Trading Co. Pvt. Ltd. Nana Chowk, Mumbai which was treated as bogus purchases by the revenue and was added back with the total income of the assessee. The assessee filed submission in support of its claim. The grievance of the revenue was that the seller M/s New Planet Trading Co. Pvt. Ltd. was searched, and the owner of the company declared that they provided the bogus entry to the party. On the basis of the declaration and the information from DGIT (Inv), Mumbai/ Bangalore the purchase amount to Rs. 936,000/- was treated as bogus purchase & added back with total income. Aggrieved assessee filed an appeal before the Id. CIT(A) by challenging the order of the Id. AO. The Id. CIT(A) uphold the order of the Id. AO.

3. Being aggrieved assessee filed an appeal before us.

4. During the hearing the counsel of the assessee filed a paper book and written submission which are kept in the record. The assessee submitted that the entire

documents, books of account, stock register was filed before both the revenue authorities in support of their claim. The assessee also submitted the payment confirmation from the bank statement, purchase bill, financial statement, tax audit report and stock statement for substantiate its claim filed before the bench. The Id. Counsel of the assessee further argued that the entire addition was made without finding a single lacuna in the purchase and transaction with party. The addition was fully depending on the report of the DGIT (Inv) Mumbai/ Bangalore. But there was no cross verification was made or any documents provided in support of the claim of the revenue.

5. The Id. Sr. DR vehemently argued & relied on the order of both the revenue authorities. He pointed out that the item of the bill, which was produced by the assessee before the bench, is not included in the stock register. His argument was focused in support of the addition.

5.1 The Id. Counsel further draw our attention that in the last page of stock statement that the items are entered and all the documents are submitted before the lower authorities. The Id. Counsel respectfully relied on the order of the Hon'ble Allahabad High Court in the case of **PCIT vs. Kushal Foods Pvt. Ltd. (2019) 104**

CCH 0214 (AII- HC) and in the case of PCIT vs. Padmini Vna Mechatronics Pvt. Ltd. (2019) 104 CCH 0106 (Del HC).

6. We heard the rival submission and relied on the documents available in the record. During proceeding the assessee filed all the relevant documents including the stock register before the authority. The entire transaction was made through banking channel; Certificate from bankers was also enclosed. The Id. Counsel relied on the order of the Hon'ble Allahabad High Court and factually we respectfully relied on the order of the Hon'ble High Court of Allahabad. The books of account and all purchases documents are submitted including stock register for substantiate its claim. There is no cross verification was made with the party and the assessee related to this transaction. In factual aspect there is no such lacuna was found by any of the authority for purchases of the goods and its transaction during this financial year. The assessee was denied observing the details of the evidence of revenue on which the addition was sustained. We respectfully relied on the order of Hon'ble **High Court of Allahabad** in the case of **PCIT vs. Kushal Foods Pvt. Ltd. (2019) 104 CCH 0214 (AII- HC)**. Held that

“Income—Bogus purchases—Addition—Validity—Assessment was completed in case of assessee— However, thereafter, information was received from ADIT-3, Kanpur that one Mr G, proprietor of M/s ATC had stated during course of statement u/s 131(1-A) that during relevant period he had raised bills to

assessee without any actual sale and received commission—On basis of such statement, proceedings u/s 147 were initiated and notice was issued—Thereafter, order u/s 147 r/w/s 148 was passed and addition was made on account of bogus purchases—CIT(A) partly allowed appeal—Tribunal held in favour of assessee—Held, in pursuance of summons and on cross-examination of Mr Gupta, he had clearly and categorically denied that he indulged in any kind of mal-practice—He also denied to make any statement that he was only getting commission for issuing bills with actual sale to assessee—Therefore, no question of law arose in present appeal—Authorities had recorded that M/s ATC had produced its books of account in reassessment proceedings and same were verified by AO—Quantity and details, furnished by assessee, were neither disturbed nor rejected—Moreover, assessee had shown purchases from 13 parties, including M/s ATC, and none of parties, from whom purchases had been shown by assessee, was found bogus—Payments had been made through cheques and all entries were duly made in books of account and same were verified—Therefore, no substantial question of law arose in present appeal—Revenue's appeal dismissed.”

We find that the addition amount of Rs.9,36,000/- is liable to be quashed.

7. In the result, the appeal of the assessee bearing **ITA No. 72/Asr/2019** is allowed.

Order pronounced in the open court on 15.11.2022

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order