

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER &
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 118/Mum/2022
(A.Y.2015-16)**

Ravi Mohanlal Bhalotia 12/1, MIDC Saravali, Bhiwandi, Dist. Thane- 421302	Vs.	CIT(A), NFAC Delhi
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ABIPB1342B		
Appellant	..	Respondent

Appellant by :	Sudhir Hunargikar & Madhav Khisti
Respondent by :	Mahita Nair

Date of Hearing	23.11.2022
Date of Pronouncement	29.11.2022

आदेश / O R D E R

Per Amarjit Singh (AM):

The present appeal filed by the assessee is directed against the order passed the NFAC, dated 23.11.2022 for A.Y. 2015-16. The assessee has raised the following grounds before us:

- “1. The learned CIT (A) National Faceless Appeal Centre is not justified in determining the total income of at Rs.72,77,155/- as against returned income of Rs. 12,67,080/-.*
- 2. The learned CIT (A) National Faceless Appeal Centre has erred in making addition of Rs.60,10,075/- on account of non-genuine purchases despite the fact that Ledger Confirmations along with copies of purchase bills were submitted during the course of e-proceedings.*

3. *The appellant craves to leave, add, alter, amend and/or delete any of the above referred grounds of appeal at the time of the hearing of the appeal.*”

2. The fact in brief is that return of income declaring income of Rs.12,67,080/- was filed on 30.09.2015. The case was subject to scrutiny assessment and notice u/s 143(3) of the Act was issued on 30.09.2016. During the course of assessment the A.O noticed that assessee has shown sundry creditors to the extent of Rs.1,01,19,495/- from the following parties:

<i>Sr. No.</i>	<i>Party Name</i>	<i>Amount</i>
1.	<i>Chawla Sales</i>	<i>Rs.25,10,125/-</i>
2.	<i>Ram Textiles (Bhola Sharma)</i>	<i>Rs.15,00,250/-</i>
3.	<i>Shree Hari</i>	<i>Rs.19,99,700/-</i>
4.	<i>Pioneer Lables</i>	<i>Rs.31,123/-</i>

The assessee was asked to submit the detail of the aforesaid creditors i.e name, address, PAN, amount, detail of confirmation of ledger account from the said parties etc. The assessee failed to submit the detail, therefore, assessee was asked to show cause by the purchases made from the above parties amounting to Rs.60,41,198/- should not be considered as non genuine. However, the assessee submitted unsigned confirmation of account extract of the 3 creditors namely, Ram Textiles, Shri Hari and Pioneer Lables and has not submitted any detail in respect of other party namely Chawla Sales. In spite of giving opportunities the assessee has not submitted any documentary evidences such as ledgers, bills, vouchers etc, in respect of these purchases, therefore, the A.O has disallowed the entire amount of Rs. 60,41,198/- u/s 37(1) of the Act and added to the total income of the assessee.

3. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee. The relevant part of the decision of ld. CIT(A) is as under:

“5.3 I have considered the matter. In course of assessment proceeding, assessee was able to furnish only unsigned extract of confirmation of accounts. In appeal proceeding, assessee filed alleged confirmations. It was stated that parties were trade creditors: Goods were taken on credit and sums due were repaid in succeeding accounting year. In course of remand proceeding, the AO had issued letters to creditors asking them for confirmation of accounts, sale bills and proof of receipt of payment evidenced by bank account. But the creditors had supplied only confirmation letters and sale bills. Subsequent notices u/s 133(6) issued to alleged creditors not complied with except in the case of M/s Pioneer Sales. In other cases, the letters came back with postal remark, “not known”. On examination of documents, the AO noticed difference in signatures in the confirmations filed by assessee and those received by him from alleged creditors. Serious signature discrepancies were noted in the alleged bills issued on same date. In course of remand proceeding, the assessee did not furnish anything to the AO except alleged confirmations and sale bills. The AQ could not issue letter of summons to M/s. Ram Textiles. In case of Shri Hari, the party denied having any sales and purchase transactions with assessee. In view of the above, I am not inclined to believe the genuineness of transaction claimed by assessee with Chawla Sales, Ram Textiles and Shree Hari.

Therefore, addition to the tune of Rs.(60,41,198-31,123) or Rs.60,10,075/- is sustained.”

4. Heard both the sides and perused the material on record. During the course of assessment the A.O found that assessee has failed to prove the genuineness of the purchases to the amount of Rs.60,41,198/-. In spite of providing several opportunities the assessee has not submitted relevant documentary evidences to substantiate the genuineness of purchases made from the parties as elaborated above in this order. However, during the course of appellate proceedings the assessee submitted confirmation of accounts and photocopy of bills. In the remand proceedings the A.O issued letter u/s 133(6) to the aforesaid creditors to produce the original copies of confirmation of accounts, sale bill issued to the assessee, copies of bank statements indicating receipt

and payment in respect of the above transaction, detail of TDS if any made, PAN/GIR number along with copies of annual report/balance sheet, profit and loss and copy of return of income etc. However, except confirmation account and copies of bill no other detail were furnished during the course of remand proceedings. The A.O has also observed various discrepancies on these copies of confirmation and bills. The A.O has again issued letter u/s 133(6) to the creditors which were returned unserved except in the case of M/s Pioneer lables with the remarks “not known”. The assessee has not submitted any other documents i.e copy of bank statement, copy of ITR filed by the creditors, cash book maintained by the creditors, in support of cash sales, GIR number or any requisite document to substantiate its claim of proving the genuineness of purchases. Further M/s Shri Hari has denied of making any transaction with the assessee. Further on perusal of the copies of confirmation letter placed in the paper book it is noticed that most of the payment shown to be made to the purchase parties in cash. However, the assessee has not provided any detail of cash sale made by the assessee. On perusal of the copy of audit report placed in the paper book on Form No. 3CB it is noticed that assessee being manufacturer and exporter of fabric has not given any detail of consumption of raw material and detail of production and stock as required in column no. 28-29 of the audit report. The assessee has also not maintained the day to day closing stock. The payment to the purchase parties in the question were not made by the account payee cross cheque. The assessee has not established the identity of the creditors since copies of bank statement and the proof of payment were not submitted. In view of the above facts and circumstances the various cases referred by the assessee of the ITAT are distinguishable from the fact of the case of the assessee. However,

considering the submission of the assessee placed at page no. 41 of the paper book that by making addition of Rs.60,10,075/- the gross profit is determined at 33.65% which is very unrealistic, we direct the A.O to restrict the addition in the case of the assessee to the extent of gross profit shown by the assessee @ 22.63% of impugned purchases of Rs.60,10,075/- which comes to Rs.13,60,089/- on account of various specific infirmities found in the case of the assessee which are distinguishable of other cases. Accordingly, appeal of the assessee is partly allowed.

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

Order pronounced in the open court on 29.11.2022

Sd/-
(Rahul Chaudhary)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 29.11.2022

Rohit: PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.