

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

**BEFORE SHRI AMIT SHUKLA, JM &  
SHRI S. RIFAUR RAHMAN, AM**

आयकरअपीलसं./ I.T.A. No. 2615, 2618, 2617 & 2616/Mum/2022  
(निर्धारणवर्ष / Assessment Years: 2012-13, 2013-14, 2015-16 & 2016-17)

<b>Meridian Flour Mills Ltd.</b> Plot No. 49, TTC Industrial Area, Thane, Belapur Road, Airoli Rabale, Thane-400 708	<b>बनाम/ Vs.</b>	<b>ACIT Cir-15(2)(2),</b> Aayakar Bhavan, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN No. AAICS3943B		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )
अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri Suchek Anchaliya/ Tushar Nagori, Ld. ARs
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri Ashish Kumar, Ld. DR
सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	26.12.2022
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	29.12.2022

आदेश / O R D E R

**Per AMIT SHUKLA, Judicial Member:**

The aforesaid appeals have been filed by the assessee against the separate impugned order of even date, 21.09.2022, passed by NFAC, Delhi for the quantum of assessment passed u/s 143(3) r.w.s. 147 for the AYs 2012-13, 2013-14, 2015-16 & 2016-17.

2. Since the grounds raised as well as issues involved in all the appeals are common and are arising out of identical set of facts, therefore, same were heard together and disposed off by way of this consolidated order.

3. In various grounds of appeal, assessee has challenged the reopening u/s 147; and on merits, has challenged the order of Ld. CIT (A) in confirming the order of AO in treating the purchases as bogus and adding into the entire purchases amount.

4. First of all, we are taking ITA No. 2615/Mum/ 2022 for AY 2012-13 and our findings given herein this appeal will apply mutatis mutandis in the other appeals also.

5. The brief facts of the case are that, assessee firm is running a flour mill, i.e., manufacturing of Aata, Maida, Sooji, etc. For the year under consideration, assessee has filed its return of income on 23.08.2012 declaring total income of Rs. 21,93,930/-. Thereafter, assessment u/s 143(3) was passed assessing the total income of Rs. 66,07,370/-. Thereafter, the information was received from DDIT, Investigation Mehsana, Gujarat that inquiry was conducted in the case of Shri Narendra Kumar Narayanlal Agarwal who carried out

business in broking in grain trading, but was an entry provider through his various entities. During the FY 2011-12, one of the said entity, M/s Laxmi Trading Co. which was controlled by Shri Narendra Kumar Narayanlal Agarwal has supplied grains of Rs. 4,81,566/-. Based on this information, the case was reopened u/s 147. The AO also issued notice u/s 133(6) to M/s Laxmi Trading Co., however, as per the AO, no reply was received from the said party.

6. Before the AO, assessee submitted various documents which has been noted by the AO in the following manner:-

*7. The assessee vide letter dated 30.11.2019 has submitted that the assessee purchased wheat from M/s. Laxmi Trading Co from account payee cheques. Further, the said purchase of wheat purchase is supported by purchase invoice with VAT, TIN number, lorry receipts, internal wheat receipt note, weigh bridge certificate of actual quality and entered into the internal control system of the company. The assessee further contended that the purchase of wheat from the above party is genuine purchase with actual delivery of goods at the factory of the assessee company.*

7. However, Ld. AO instead of inquiring on these documents has relied and referred to the statement of Shri Narendra Kumar

Narayanlal Agarwal and also the observation of Investigation Wing and treated the purchases of Rs. 4,81,566 as bogus and treated the same to be the income of the assessee u/s 69C of the Act.

8. Ld. First Appellate Authority has confirmed the said addition after observing as under:-

*5. The next three grounds related to an addition of entire amount of purchases amounting to Rs. 4,81,566/- as bogus purchases. The appellant claims that Ld. Assessing Officer erred in making the addition of genuine purchases solely on the basis of the statement of Shri Narendra Kumar Narayanlal Agarwal without appreciating the fact that the appellant had purchased the goods with actual delivery supported by transport lorry receipts and other vital documents and in treating the purchase of Rs. 4,81,566/- from M/s Laxmi Trading Company as non-genuine without appreciating the fact that the payments were made through legitimate channel and there is no corroborative evidence of payment of purchase otherwise than by cross account payee cheque or banking channel. On the basis of above facts and circumstances of the case it is seen that the appellant has produced bills and vouchers relating to transaction the fact remained that Shri Narendra Kumar Narayanlal Agarwal were not doing any business activity. They had many fake concerns other than lakshmi trading company to carry out transactions, it is also a fact that they were issuing bogus bills to concerns. No stock of food grain or anything was available*

*with them and Shri Narendra Kumar Narayanlal Agarwal admitted to carry out business through telephone calls only. In such situation issuing of purchase bill with transport bill could not be a reality.*

*6. All though the payment made by the assesses towards the purchases is through banking channels, it is also revealed that the suppliers were issuing bogus bills and vouchers to various parties. In this situation, producing the bills and vouchers and evidencing the payment made through cheque alone will not establish that the transactions are genuine. When the entity providing goods itself is not carrying out any business but keeping only money management through bank accounts in form of cheque deposits and cash withdrawals, not paying any amount to traders from whom it make purchases, the A.O has rightly made addition of the purchase of Rs 4.81.566/- as income from other sources , which is a fake expenditure by the assessee. When there is no actual purchase there cannot be any sale of absent goods. The assessing officer is justified in adding the entire purchases.*

9. Before us, Ld. Counsel for the assessee submitted that here in this case, the assessee in the Form 3CED has disclosed the entire quantity of purchases alongwith corresponding quantity for production of various items, i.e., Aata, Maida, Suzi, etc. Apart from that, assessee had also furnished various documentary evidences before the AO and Ld. CIT (A) about the genuineness of the purchases and also drew our attention to the various documents

filed in the form of paper book. He submitted that once the quantity of purchases have not been disputed and the corresponding purchase material on which assessee had shown manufacturing and production of various items, therefore, such purchases cannot be held to be non-genuine.

10. On the other hand, Ld. DR strongly referred to the order of AO and Ld. CIT (A) and submitted that the said party did not responded to notice issued u/s 133(6) and looking to the fact that during the course of inquiry and the case of Shri Narendra Kumar Narayanlal Agarwal, it was found that the entities which was controlled by him were only providing accommodation entries. Therefore, addition on entire purchases has rightly been made.

11. We have heard both the parties and perused the relevant findings given in the impugned order as well as material placed on record. In all the years under consideration, the only dispute is with regard to certain quantity of purchases made by the assessee from 3 parties has been treated as bogus on the ground that, these concerns are managed and controlled by Shri Narendra Kumar Narayanlal Agarwal, who was found to be providing bogus entries

for supply of grains. From the perusal of the records, it is seen that assessee has shown following total purchases out of which only some part has been treated as alleged bogus purchases:-

A.Y.	Party Name	Details of alleged Purchases		Total Purchases during the year	
		Quintal	Amount	Quintal	Amount
2012-13	Lax mi Trading Company	412.60	481,566	601,701.38	753,125,157
2013-14	Shree Shyambaba Trading Company	219.00	373,777	542,805.36	818,465,898
2015-16	Umiya Traders	879.25	1,657,930	551,074.00	922,630,309
2016-17	Umiya Traders	1,368.00	2,069,995	487,174.00	795,893,367

12. During the course of assessment proceedings, the assessee had submitted the following details to prove the genuineness of the purchases which are as under:-

1. Purchase Invoices depicting actual quantity, amount, Transport Vehicle Number and Stamp of Check Post
2. Lorry Receipt of Independent Transport Agency
3. Details of Brokerage Paid to Independent Broker
4. Stamp of Check Post giving clearance of Gujarat Commercial Tax to the Transport vehicle
5. Computerized weigh bills issued by independent party to determine quantity of goods received

6. Internal memo and weigh bill receipt on arrival of goods in the factory premises

7. Bank Statement as proof of payments

Ld. Counsel had also drawn our attention to various invoices from where he pointed out that the purchase invoices contained quantity, amount and transport vehicle number and also it was verified by the check-post by the Gujarat Commercial Tax Deptt. giving clearance for the transport of goods from the said party.

13. From the perusal of these documents, there cannot be any iota of doubt that assessee did made purchases from these parties and there is clear cut evidence of transportation of purchased goods which is clearly evident from these documentary evidence which are also verified by the concerned state authorities. Apart from that, assessee has also given the details of internal memo and weighs bill receipt on the arrival of goods in the factory premises. All the quantitative details have been shown in the stock register which has also been verified by the Auditors in the audit report in form 3CED. Assessee has accounted for opening stock, purchases, the quantitative production of various items like, Maida, Suzi, Aata, etc., alongwith quantitative details as well as closing stock. Nowhere

there is any discrepancy found in the quantity of purchases or the quantity of consumption of raw material in the production of various items and the corresponding sales. The AO or the Ld. CIT (A) have not given any finding that the quantity of purchases made from these parties have not been reconciled or there is any mismatch in the quantitative tally. Thus, the prima facie, in view of these evidences which have not been rebutted by the AO or Ld. CIT (A), it cannot be held that these documentary evidence are not genuine. There is clear cut mention of actual quantity of purchases alongwith details of transportation, delivery, brokerage paid of said purchase and transportation of these purchased goods have duly been given clearance by the check-post of Gujarat Commercial Tax Department and is further corroborated by other computerized weigh bills issued by independent party which goes to show that the quantity of goods have been purchased and received by the assessee. Accordingly, the purchases cannot be held to be non genuine.

14. Heavy reliance has been placed by the AO and Ld. CIT(A) that during the course of Investigation Wing, Shri Narendra Kumar Narayanlal Agarwal has admitted that he is providing

accommodation entries and he has given a list of various cases in which he has provided bills. However, nowhere there are any other material to show that all these documentary evidences of actual delivery and received goods from these firms, alleged to be controlled by the said person, is fictitious or there is no actual delivery and these were only a paper transaction. Nowhere the said party has stated that the quantity of the same very purchases and the bills issued from these firms for the purchases of said goods which also included actual quantity, transportation details duly verified by the Gujarat State authority were not-genuine. Once the purchases have been recorded and the corresponding quantity has been utilized for production and sale thereto which has not been disputed, then mere some finding of the inquiry that a person involved was given accommodation entries will not make the entire purchases as bogus or non-genuine. The source of purchases is from the books of account and payments have been made through banking channel and therefore, it cannot be held that the purchases are bogus or outside books. Accordingly, we do not find any reason to treat the entire purchases as bogus. Accordingly, the

addition made by the AO and sustained by Ld. CIT (A) is directed to be deleted.

15. Since, we have already decided the similar issue in appeal filed for AY 2012-13, therefore the same will apply mutatis mutandis in appeal filed for AY 2013-14, 2015-16 and 2016-17 also.

16. In the net result, all the appeals filed by the assessee are **allowed.**

*Orders pronounced in the open court on 29<sup>th</sup> December, 2022.*

*Sd/-*

(S. Rifaur Rahman)  
Accountant Member

मुंबई Mumbai; दिनांक Dated : 29/12/2022  
Sr.PS. Dhananjay

*Sd/-*

(Amit Shukla)  
Judicial Member

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai**