

**THE INCOME TAX APPELLATE TRIBUNAL
DELHIBENCH 'E', NEW DELHI**

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

Sh. Yogesh Kumar US, Judicial Member

ITA No. 2174/Del/2018 : Asstt. Year : 2011-12

M. S. Decorators Pvt. Ltd., C/o Sunita & Chadha, CAs, Flat No. 77, Bhagat Singh Market, New Delhi-110001	Vs	DCIT, Circle-6(1), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AAACM1210H		

Assessee by : Sh. S. K. Chadda, CA

Revenue by : Sh. Amit Shukla, Sr. DR

Date of Hearing: 29.11.2022

Date of Pronouncement: 08.02.2023

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)-6, Delhi dated 03.03.2017.

2. Following grounds have been raised by the assessee:

"1. The Id. CIT(A) has erred in confirming the reopening of the case u/s 148 of the IT Act which is totally arbitrary, unjustified and against the provisions of law.

2. The Id. CIT(A) has erred in confirming the addition of Rs.4,68,090/- on account of bogus purchases which is also arbitrary, unjustified and against the facts of the case."

3. The assessee filed return of income on 30.09.2011 declaring an income of Rs.3,97,92,889/- which has been assessed at a income of Rs.3,97,92,889/-. A notice u/s 147 of the IT Act was issued to the company and the case was re-opened, re-assessing at an income of Rs.4,02,60,979/- thus, making an addition of Rs. 4,68,090/- on account of bogus purchases.

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

Reasons for re-opening of the case u/s 147

5. As stated in Para-1 of the order "*An information has been received from the Director of Income Tax (Investigation)-I, New Delhi vide letter no. DIT [Inv.]-I/MVAT/Del/2012- 13/70 dated 26.02.2013 that the above mentioned assessee has obtained bogus purchase bills amounting to Rs.2,76,329/- from M/s. Shakti Trading Company and Rs. 1,91,761/- from M/s. Vasudev Trading company Pvt. Ltd. during the period relevant for A.Y.2011- 12. Thus, by debating bogus purchases to the Trading and P & L Account amounting to (2,76,329+1,91,761) Rs.4,68,090/-, the assessee has understated its income equal in the same amount i.e. Rs.4,68,090/-. Therefore, I have reasons to believe that income of Rs.4,68,090/- has escaped assessment for the assessment year 2011-12 in the case of M/s. M S Decorators Private Limited.*"

6. During the year under reference, the assessee company made purchases of goods from Shakti Trading Company & Vasudev Trading Co. Pvt. Ltd. The AO held that the said two parties have defaulted in the payment of VAT under the Maharashtra Value Added Tax Act, 2002. The assessee company made purchases from Shakti Trading Co., vide Invoice No.202

dt. 19/02/2011 for Rs.2,76,329/-, and the payment against the said invoice was made by Ch.No.003864 dt.03.03.2011 for Rs.2,76,329/- on Axis Bank. The company made purchases from Vasudev Trading Co. Pvt. Ltd. vide invoice No.Jan.11/10-11 dt. 11/01/2011 for Rs.1,91,761/- and the payment against the said invoice was paid as detailed below:-

Date	Ch. No.	Bank Name	Amount
02.12.2010	267839	ABN Amro Bank	41,760/-
14.12.2010	012340	AXIS BANK	1,00,000/-
14.01.2011	012436	AXIS BANK	50,000/-

7. A copy of account of both the parties as appearing in the books of accounts of the assessee company was submitted before the revenue. A copy of the bank statement of the assessee showing the payments made to the aforesaid two parties against their bill was also enclosed. It was submitted that the assessee company has made purchases from the two parties and used the goods so purchased in the execution of its work. It was submitted that non-payment of VAT and cancellation of the registration certificate of the aforesaid two parties under the Maharashtra Value Added Tax Act, 2002 has no bearing on the purchases made by the assessee company.

8. We have gone through the relevant part of the order of the Assessing Officer which is as under:-

"vide note sheet entry dated 03.02.2014 provided an opportunity to the assessee to produce both the parties for the confirmation of the impugned entries. The assessee company has shown its inability to comply with the directions and failed to produce either of the parties to prove the creditworthiness and genuineness of the parties. Subsequently, notices u/s 133(6) dated 14.03.2014 issued to both

the parties at the addresses available to verify the genuineness of the impugned transactions. The said notices were remained non-complied

4.1 In the above backdrop the assessee was required to discharge its onus u/s 68 especially in view of the fact that the notice issued to the said parties were also received back undelivered at the available addresses. The assessee failed to discharge its onus.

4.2 In the light of the above facts it is quite evident that the assessee had acquired bogus purchase bills Rs.2,76,329/- from M/s. Shakti Trading Company and Rs.1,91,761/- from M/s. Vasudev Trading Company Pvt. Ltd. and no real transactions took place. The genuineness and creditworthiness of the party making sale to the assessee is not proved. The assessee has failed in discharging its onus and failed to prove the genuineness of the transaction and creditworthiness of the entities therefore, an addition of Rs.4,68,090/- is being made u/s 68 of I.T. Act as unexplained purchases in the books of assessee."

9. We find that the total turnover of the assessee for the year was Rs. 61.00 crores and made purchases to the tune of Rs. 39.75 crores having a opening inventory of Rs. 22.82 crores on which the assessee earned an income of Rs. 4.06 crores and filed return of income declaring income of Rs. 3.97 crores. The alleged bogus purchase was of Rs. 4,68,000/-. The assessee has produced all the relevant documents to prove to genuineness of the purchases. We find non-production of the two parties from whom purchase of Rs. 468,000/- has been entered the assessee amongst the purchases of Rs. 39.79 crores cannot be the sole reason calling for the addition when weighted against the tangible evidences submitted by the assessee.

10. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 08/02/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

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

Dated: 08/02/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR