

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'H': NEW DELHI**

**BEFORE,  
SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.4151/Del/2019  
(ASSESSMENT YEAR 2010-11)**

M/s The Indure Pvt. Ltd. Indure House Greater Kailash Part-II, Delhi-110 048 PAN-AAACT 0121C <b>(Appellant)</b>	Vs.	ACIT Circle-25(1) New Delhi <b>(Respondent)</b>
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Appellant by	Mr. Ashwani Kumar, CA
Respondent by	Mr. Bhupendera Anant, Sr. DR

Date of Hearing	09/05/2023
Date of Pronouncement	04/08/2023

**ORDER**

**PER M. BALAGANESH AM:**

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-9, New Delhi, [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.09/10203/2017-18 dated 08/03/2019 against the order passed by Assistant Commissioner of Income Tax, Circle-25(1), New Delhi, (hereinafter referred to as the 'Ld. AO') u/s 147 of the

Income Tax Act (hereinafter referred to as 'the Act') on 30/11/2017 for the Assessment Year 2010-11.

2. The assessee has raised the following grounds of appeal:

*"1. That the order dated 08-03-2019 passed u/s 250 of the Income -tax Act, 1961 (hereinafter called the "Act") by the Ld. Commissioner of Income-Tax (Appeals)-09, New Delhi, is against law and facts on the file in as much as he was not justified to uphold the action of the Ld Assessing Officer in resorting to the reassessment proceedings u/s 148 of the Act*

*2. That the order dated 08-03-2019 passed u/s 250 of the Act by the Ld. Commissioner of Income-Tax (Appeals) -09, New Delhi, is against law and facts on the file in as much as he was not justified to uphold the action of the Ld Assessing Officer in making an addition of Rs 27,78,372/- by resorting to the provisions of section 68/69C of the Act on account of transactions made with M/s Global Trade Corporation for supply of High Speed Diesel and Furnace (fuel) Oil to the Appellant Company's manufacturing units at Sahibabad and Sikandrabad (Uttar Pradesh) as allegedly not being genuine and being bogus entries and holding that the Appellant Company had allegedly taken accommodation entry amounting to Rs. 27,28,372/- from the said party."*

3. The ground No.1 raised by the assessee is challenging the validity of the reassessment proceedings u/s 147 of the Act.

4. The ground No.2 raised by the assessee is challenging the disallowance made on account of unverifiable purchases from M/s Global Trade Corporation.

5. We have heard the rival submissions and perused the material available on record. The assessee company is a Private Limited Company and engaged in the business of executing turnkey contracts of ash handling plants, spares, operation and maintenance of power plants and undertaking EPC (Engineering, Procurement and Construction) Contracts for power plants of various capacities. Its customer base predominantly comprised of Public Sector Undertakings (PSUs) like BHEL, NTPC, State Electricity Boards and large private players in the Power sector. The turnover of the assessee for the year was Rs.731.94 cores. The return of income was filed by the assessee company for AY 2010-11 on 24/09/2010 declaring total income of Rs.40,28,67,750/- which was assessed vide order u/s 143(3) of the Act on 07.03.2013 determining the total income at Rs.40,60,64,092/-. Subsequently, on receipt of information from the office of the Assistant Director of Income Tax (Inv.)-1, Faridabad that M/s Global Trade Corporation, New Delhi had allegedly made bogus sales to the assessee company for a sum of Rs.27,78,372/-, the Ld. A.O. sought to reopen the assessment of the assessee after recording the following reasons:

“Reasons for the belief that income has escaped assessment in the case of M/s. The Indure Pvt. Ltd., Indure House, Greater Kailash-II, New Delhi-110048, PAN: AAAC0121C, A.Y. 2010-11.

M/s. The Indure Pvt. Ltd is assessed to tax with the Circle-25(1), New Delhi. In this case, an information was received from O/o the Assistant Director of Income Tax, Investigation-I, Faridabad wherein it is mentioned that a SIR was received from FIU-IND in the case of M/s. Global Trade Corporation having PAN ASQPS3593Q.

The case was further investigated and found that Global Trade Corporation having PAN ASQPS3593Q holds 2 accounts with ICICI Bank. In the accounts cash deposits, RTGS & clearing, receive funds & debits are mostly by cash withdrawal. During EDD, customer reported to be trader of steel products and lubricants. Although business of steel products involves rare cash uses, the value of non-cash deposits & nature of transaction incurred appear to be unusual in relation to what would be expected from the normal business activity of the customer. Thus transaction pattern is not in line of the business purpose. The Bank accounts of the entity have been perused and noticed that high value cash transactions as well as RTGS/bank transfers was taken in these accounts. In these firms, funds was credited through transfers from many parties and the same were either withdrawn in cash from the same firm account or routed to another firm’s bank account of the respective proprietors. On perusal of transactions pattern in these bank accounts, it appears that Sh. Tek Chand and Sh. Ram Kishan involved in the business of bogus billing. Following transactions are observed in the bank accounts made with M/s. The Indure Pvt. Ltd.:

On perusal of the details provided in the letter, it is seen that the assessee i.e., M/s. The Indure Pvt. Ltd. has made the following transactions:-

S. No. (1)	Name of the Bogus Entity (2)	Name of the Beneficiary (3)	PAN (4)	Mode (5)	A.Y. (6)	Amount (7)
1	Global Trade Corporation	The Indure Pvt. Ltd.	AAAC0121C	Cheque/20.06.2009	2010-11	3,88,402/-
2	Global Trade Corporation	The Indure Pvt. Ltd.	AAAC0121C	Cheque/01.07.2009	2010-11	3,96,665/-
3	Global Trade Corporation	The Indure Pvt. Ltd.	AAAC0121C	Cheque/09.09.2009	2010-11	8,00,000/-
4	Global Trade Corporation	The Indure Pvt. Ltd.	AAAC0121C	Cheque/17.07.2009	2010-11	3,94,740/-
5	Global Trade Corporation	The Indure Pvt. Ltd.	AAAC0121C	Cheque/05.07.2009	2010-11	3,98,565/-
6	Global Trade Corporation	The Indure Pvt. Ltd.	AAAC0121C	Cheque/26.10.2009	2010-11	4,00,000/-
					<b>Total</b>	<b>Rs.27,78,372/-</b>

In column no.2 of the above table are the bogus entities/ companies managed, controlled and operated by Mr. Tek Chand Sharma for providing bogus accommodation entries, hence, all the transactions entered into between the above mentioned entities and the assessee/beneficiary are bogus accommodation entries in nature. Therefore, above-mentioned entries need to be investigated and added back in the hands of the assessee i.e., M/s. The Indure Pvt. Ltd. for A.Y. 2010-11 to protect the interest of the Revenue.

3. In view of the above facts, I have therefore, reason to believe that income has escaped assessment by reason of omission or failure on the part of the assessee to disclose truly and fully all material facts necessary for assessment.

4. In order to verify the said transaction, this office may kindly be granted approval in accordance with the provisions of Section 151(2) of the IT Act for issuance of notice u/s 148 of the Act.”

6. The Ld. AO after recording the aforesaid reasons issued notice u/s 148 of the Act on 30/03/2017. The assessee filed a reply vide letter dated 20/04/2017 stating that the return filed u/s 139 of the Act on 24/09/2010 may be treated as a return filed in response to notice u/s 148 of the Act. During the course of re-assessment proceedings, the Ld. AO sought to examine the veracity of the purchases made by assessee from M/s Global Trade Corporation. The Ld. AO observed that based on the information provided by the ADIT (Inv.)-1, Faridabad, the said supplier M/s Global Trade Corporation was found to be non-existent and not traceable in the address of 4<sup>th</sup> Floor, Masjid Road, Bhogal, New Delhi-110014. The notice u/s 133(6) of the Act was also issued on 13/09/2017 by the Ld. AO. The same was returned unserved by postal authorities with remarks 'no such party'. Later, summons u/s 131 of the Act was issued on 04/10/2017 to the said supplier which also returned undelivered. Another summon was issued u/s 131 of the Act dated 12/10/2017, which also could not be served. Later, the Ld. AO identified the alternate address of M/s Global Trade Corporation, where a fresh summon u/s 131 was issued. This also proved that there is no existence of the said company in the given address. All

these facts were confronted to the assessee by the Ld. AO to provide the present whereabouts of the supplier company. The Ld. AO observed that the assessee could not prove anything on record to substantiate the genuineness of the purchases made from the said supplier. The Ld. AO, on perusal of the bank statement of M/s Global Trade Corporation observed that the said bank account was used merely for layering of funds and not for any actual business purposes. The proprietor of M/s Global Trade Corporation Sh. Tek Chand Sharma was not filing his return of income. Accordingly, the Ld. AO concluded that the said entity was only involved in providing bogus sale bills to various parties which also included assessee company. Hence, the purchases made by the assessee from the said entity in the sum of Rs.27,78,372/- was treated as inflated expenditure in the form of an accommodation entry and added u/s 68/69C of the Act. This action of the Ld. AO was upheld by the Ld. CIT(A).

7. The assessee had purchased High Speed Diesel and furnace (fuel) Oil for its manufacturing units at Sahibabad and Sikandrabad, (U.P.) from M/s Global Trade Corporation for a sum

of Rs.27,78,372/-. It was specifically submitted that the assessee or its Directors are not directly or indirectly related with the proprietor of M/s Global Trade Corporation or their associates. We find that the assessee had placed on record the following documents to justify the genuineness of the purchases made from M/s Global Trade Corporation:-

- (a) Purchase orders placed on M/s Global Trade Corporation;
- (b) Bills raised by M/s Global Trade Corporation on the assessee company;
- (c) Copies of GIN (Goods Inward Note) duly verified by the relevant departments viz store, quality control, factory head etc;
- (d) Photo copies of Bank statement evidencing payment made to the vendor through account payee cheques.

8. The assessee also pointed out that it had made purchased diesel to operate generators located at both its units at Sahibabad and Sikandrabad (U.P.) to deal with the situation arising out of frequent and regular shutdown of power supply from State Electricity Board(s) ranging from 3 to 5 hours a day out of total shift of approximately 12 hours, which leads to severe disruptions in its activities and consequent financial loss. The assessee was also

having a rotary furnace of two-ton capacity at its unit in Sikandrabad which required furnace (fuel) oil for operations. Accordingly, the purchase of both the diesel and furnace oil from M/s Global Trade Corporation was not only documented but the fact that it was a necessary requirement for the smooth and efficient conduct of its manufacturing activities of the assessee, was also proved by the assessee. The Ld. AR before us submitted that the purchase of diesel and furnace oil had been actually consumed by the assessee in its manufacturing activities. This fact has not been controverted by the Revenue before us.

9. We find that the assessee had made total purchases of raw materials to the tune of Rs.374.64 crores during the year and had consumed the stores and spares to the tune of Rs.7.93 Crores during the year. Out of these entire purchases and consumption, we find that the Ld. AO had doubted only the purchases made from M/s Global Trade Corporation in the sum of Rs.27,78,372/-. The copy of purchase orders issued by assessee to M/s Global Trade Corporation are enclosed in pages 64 to 69 of the PB. Further, there was a small amendment in the purchase order issued to M/s

Global Trade Corporation by the assessee which is evidenced from page 70 of the PB. The sale invoices given by M/s Global Trade Corporation to the assessee duly contained the name of the Transporter together with the Vehicle No. thereon. The said sale invoices also contained the levy of VAT charged by the supplier on the assessee. All the sale invoices are enclosed in pages 71 to 77 of the PB. It is not in dispute that the payments have been made by the assessee to the said supplier by account payee cheques which is evidenced from the bank statement enclosed in pages 78 to 84 of the PB. The evidence for receipt of goods from M/s Global Trade Corporation is also further proved by Goods Inwards Note prepared by the assessee on various dates which are counter inspected, verified and counter checked by various authorities of the assessee company in the routine manner. These documents are enclosed in page 85 to 91. The assessee has furnished all these documentary evidence proving the consumption of the purchase of goods in its manufacturing activity. In these circumstances, apparently the transactions carried out by the assessee cannot be doubted as admittedly the assessee had duly discharged its primary onus by providing the necessary documents before the Ld. AO. It is

pertinent to note that the examination was sought to be carried out by the Ld. AO during the year 2017-2018, whereas the transaction carried out by the assessee with said supplier pertain to assessment year 2010-11. Hence, the assessee once having made certain purchase from that party and having settled the entire dues to the said party cannot be expected to keep track of the said supplier even after a gap of 8 years. Moreover, considering the amount of disputed transaction and the turnover of the assessee, the miniscule purchase of 27 lacs cannot be doubted merely based on sheer suspicion by the Revenue. No deficiency whatsoever were brought on record by the Revenue on the documentary evidences submitted by the assessee herein. Merely because a particular supplier is not traceable at the time of investigation at the time of enquiries carried out by the Revenue (which in the instant case had happened after a gap of 8 years from the time of assessee's transactions), the transactions cannot be treated as bogus. The assessee had categorically denied having any relationship either directly or indirectly with M/s Global Trade Corporation and its proprietor Tek Chand Sharma. This also give to prove that assessee had independently weighed its decision of making purchases from

M/s Global Trade Corporation in the routine manner after carrying out requisite due diligence about the said party to suit its business requirements.

10. In view of the above observations, we have no hesitation in deleting the addition made on account of unverifiable purchase and hold that the transactions carried out by the assessee with M/s Global Trade Corporation to be genuine.

11. Since, relief is granted to the assessee on merits, the legal issue raised by the assessee challenging the validity of the reopening need not be adjudicated and it is hereby left open. Accordingly, grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 4<sup>th</sup> August, 2023.

Sd/-  
**(SAKTIJIT DEY)**  
**VICE PRESIDENT**

Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 04/08/2023

*Pk/sps*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI