

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, CHENNAI**

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष  
**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND  
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **934/Chny/2019**

निर्धारण वर्ष / Assessment Year: 2009-10

Assistant Commissioner of  
Income-tax,  
Corporate Circle -2,  
No. 63-A, Race Course Road,  
Coimbatore.

P.S.R. Silk Sarees India Pvt  
Ltd.,  
v. No. 942, PSR House, Cross Cut  
Road, Gandhipuram,  
Coimbatore - 641 012.

**[PAN: AAACP-7548-M]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.: **1639/Chny/2019**

**&**

**CO No: 77/Chny/2019**

निर्धारण वर्ष / Assessment Year: 2014-15

Assistant Commissioner of  
Income-tax,  
Corporate Circle -2,  
No. 63-A, Race Course Road,  
Coimbatore.

P.S.R. Silk Sarees India Pvt  
Ltd.,  
v. No. 942, PSR House, Cross Cut  
Road, Gandhipuram,  
Coimbatore - 641 012.

**[PAN: AAACP-7548-M]**

(अपीलार्थी/Appellant)

(Cross Objector)

आयकर अपील सं./ITA No.: **3257/Chny/2018**

**&**

**CO No: 11/Chny/2019**

निर्धारण वर्ष / Assessment Year: 2014-15

Assistant Commissioner of  
Income-tax,  
Corporate Circle -2,  
No. 67-A, Race Course Road,  
Coimbatore.

M/s. P.S.R. & Sons,  
v. No. 942, Cross Cut Road,  
Gandhipuram,  
Coimbatore - 641 012.

**[PAN: AADFP-6903-E]**

(अपीलार्थी/Appellant)

(Cross Objector)

आयकर अपील सं./ITA No.: **2762/Chny/2019**

निर्धारण वर्ष / Assessment Year: 2014-15

Assistant Commissioner of  
Income-tax,  
Corporate Circle -2,  
No. 67-A, Race Course Road,  
Coimbatore.

M/s. P.S.R. Marketing  
v. Company,  
No. 942, PSR House, Cross Cut  
Road, Gandhipuram,  
Coimbatore – 641 012.

**[PAN: AAOFP-6851-E]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. AR V Sreenivasan, Addl. CIT  
Respondent/Cross Objector by : Shri. G. Sitharaman, CA

सुनवाई की तारीख/Date of Hearing : 05.09.2023

घोषणा की तारीख/Date of Pronouncement : 11.10.2023

**आदेश / O R D E R**

**PER MANJUNATHA. G, ACCOUNTANT MEMBER:**

These four appeals filed by the revenue and separate cross objections filed by the two different assesseees' are directed against separate but identical orders of Commissioner of Income-Tax (Appeals) dated 25.02.2019 and pertains to assessment years 2009-10 & 2014-15. Since, facts are identical and issues are common, for the sake of convenience, the appeals filed by the revenue and cross objections filed by the assesseees' are being heard together and disposed off, by this consolidated order.

**ITA No: 1639/Chny/2019 & CO: 77/Chny/2019:**

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

1. *On the facts and circumstances of the case the learned CIT(A) erred by deleting the addition made of Rs. 7,14,48,417/- on account of variation in the stock found during the course of survey without appreciating the fact that all the stocks of assessee were properly taken and valued, which was also accepted as correct by the Director during the course of survey.*

2. *On the facts and circumstances of the case the learned CIT(A) failed to appreciate the fact that the valuation of the physical stock was done as per bar coded tags, and the book value of the goods were also as per bar codes. Therefore, there was no variation in the method of valuation adopted while ascertaining the variation.*

3. *On the facts and circumstances of the case the learned CIT(A) ignored the fact that assessee had, while finalizing the books of account, adopted the inflated value of stock as a result of fictitious purchase being booked, resulting in escapement of income of Rs. 7,14,48,417I-.*

4. *The Hon'ble ITAT is requested to delete the order of the learned CIT(A) and restore that of the assessing officer"*

3. The assessee has raised the following grounds of cross objections:

*"1. The CIT (Appeals) erred both in Law and on the facts of the case, in sustaining the sum of Rs.3 1,46,788/-.*

*2. He erred in ignoring the fact that the appellant had furnished the assessment particulars of the parties in respect of which the addition has been made.*

*3. The appellant, therefore, prays that the addition of Rs.3 1,46,788/- may be deleted."*

4. The brief facts of the case are that, the assessee company is carrying on textile business in Coimbatore and branches in the State of Tamilnadu. The assessee has filed its return of income for the assessment year 2014-15 on 30.11.2014, declaring total income of Rs. 3,77,44,810/-, under normal provisions of the Income Tax Act, 1961 and book profit of Rs. 3,56,81,021/- under the provisions of MAT computation. The assessee is maintaining particulars of stock in trade in software called 'Vahini software'. A survey u/s. 133A of the Income-tax Act, 1961 (hereinafter referred to as "the Act") was conducted in the business premises of the appellant and other group firms on 20.03.2014. During the course of survey, physical stock was taken by the survey team and compared with stock in trade as per Vahini Software. On verification of stock in trade found during the course of survey and books of accounts maintained by the assessee, it was noticed that there is a difference between the book stock and physical stock to the tune of Rs. 7,14,48,417/-. A statement was recorded from one of the Director Shri. R. Srinivasan, and in response to specific question, he had admitted that the company was restored to inflation of purchases by introducing the tags

without goods, which resulted in deficit stock. The deficit quantum of stock represents inflation of purchases. Therefore, he admitted that the difference amount of Rs. 7,14,48,417/- is inflation of purchase.

5. The case was selected for scrutiny. During the course of assessment proceedings, the assessee was called upon to explain, as to why difference in stock in trade found during the course of survey cannot be treated as unexplained expenditure being inflation of purchases. In response, the assessee submitted that, the survey team has committed a fundamental error in taking physical stock at cost price and then compared with selling price maintained with Vahini software, to arrive at a deficit stock in trade, without considering fact that the price as per Vahini software is selling price for the purpose of salesman, which includes assessee's mark-up. The assessee further submitted that, there is no difference in quantitative details of stock in trade, but the difference is on account of only valuation. The Department has taken physical stock at cost price and then compared with selling price of vahini software, which resulted in deficit in stock in trade. The

assessee has also filed reconciliation explaining stock in trade as per Vahini software and physical stock found during the course of survey and argued that, there is no difference as quantified by the survey team. The Assessing Officer, however was not satisfied with explanation furnished by the assessee and according to the Assessing Officer, the arguments of the assessee that value in the Vahini software was at selling price and the physical stock was at cost price, is only an afterthought without any supporting evidence. Further, during the course of survey, the Director of the assessee company itself has admitted that the company has inflated purchases and created tag in Vahini software, without actual goods and his statement was further strengthened by facts gathered during the course of survey, where it has been clearly identified that another group company of appellant was indulged in making bogus sales bills to appellant companies and other group companies and therefore, rejected arguments of the assessee and made additions towards deficit stock in trade as inflation of purchases and added back to the total income of the assessee.

6. Being aggrieved by the assessment order, the assessee preferred an appeal before the CIT(A). Before the Id. CIT(A), the assessee has reiterated its arguments made before the Assessing Officer along with reconciliation explaining difference in stock in trade quantified by the survey team. The assessee further contended that, the fundamental error committed by the Assessing Officer to quantify deficit stock in trade is on account of comparing cost price with selling price as per Vahini software, without understanding fact that the assessee being a retail seller of textiles has created a tag in each item of stock with selling price for the purpose of salesman at the counter. The assessee further contended that, there is no difference in quantity of stock in trade when compared to physical stock and stock as per books. But, the difference quantified by the Assessing Officer is on account of valuation. Therefore, the assessee submitted that the Assessing Officer is completely erred in making additions towards deficit stock in trade as unexplained purchases.

7. The Id. CIT(A), after considering relevant submissions of the assessee and also taken note of findings of the survey

opined that, it is difficult to agree with the Assessing Officer that the difference between figures found in Vahini software and the physical stock of goods found in the premises should be assessed to tax. The statement given by the Director of the company during the course of survey, cannot be taken as conclusive evidence, unless it is supported by corroborative evidence. The Assessing Officer, has also not given proper reasons for rejecting reconciliation submitted by the assessee explaining difference quantified during the course of survey. The Assessing Officer, has also failed to prove convincingly that the difference in stock value was due to inflation of purchase, because even if you admit the reasons given by the Assessing Officer to treat the physical stock as inflation of purchases, but on going through the bills of purchases from sister concern, the value of purchase is much lesser than the amount quantified by the Assessing Officer towards deficit stock in trade. Therefore, directed the Assessing Officer to delete additions made towards stock difference as inflation of purchases and relevant findings of the Id. CIT(A) are as under:

*5.0 After going through the records and on the objections raised by the appellant the issues are decided as under:*

*5.1 Now coming to the first addition made by the AO towards difference (deficit) in physical stock. To decide this issue, it is*

*first necessary to fully appreciate the facts and the background of this issue emanating from the survey u/s 133A. I have also gone through the Survey file requisitioned from the Assessing Officer, in order to appreciate the facts better first-hand.*

*5.2 There was a survey in this case on 20.03.2014. It appears that during the Survey, the Survey team made an inventory of the physical stock and arrived at a value of the physical stock as Rs.11,65,76,455/-. Further, the survey team also noticed that the value of the stock as per the customized software maintained by the assessee viz. 'Vahini Software' was Rs. 18,80,24,872/-. This led to a working out of deficit in stock of Rs. (-)7,14,48,417/-.*

*5.3 During the survey, when a question was posed to the Partners of the firm, they explained that the firm was in the habit of getting bogus purchase bills from sister concerns for which no stock was actually received. This apparently led to the deficit in physical stock on the date of the survey. For this reason, on this issue, an offer of additional income was made by the Partners.*

*5.4 Now, this was the position as on the date of the survey, when the financial year (previous year) has not ended. One must bear in mind that the assessee has finalized the accounts and filed its return of income after nearly 8 months from the date of survey. There existed a distinct possibility that the assessee has adopted the correct figures of stock/purchases and gone ahead with the filing of the return Considering that the defects in their accounts were by then exposed during the Survey. Naturally, this aspect was required to be verified first and foremost by the Assessing Officer before proceeding any further.*

*5.5 Now, subsequent to the survey, the assessee filed its return of income for the A.Y 2014-15 which was taken up for scrutiny. During the assessment proceedings, the assessee put forth the argument that the stock value in 'Vahini Software (at times referred by both the assessee and AO as 'aahini Software) was based on the Selling Price and this was the prime cause for the variation in the value of physical stock (taken at Cost Price) and stock as per the Vahini Software. It is true that at the time of the survey, the statement given by the Partners did not quite mention this explanation and this was a new explanation in variance with their earlier stand.*

5.6 Now before the A0, there were two diverse reasons ascribed by the assessee for the deficit stock. It was therefore necessary for the Assessing Officer to analyse both reasons and to decipher which is the correct one. In my opinion, for completing the assessment, the challenges before the Assessing Officer in the context of these arguments were twofold viz. (i). What is the proper treatment to be accorded to ascertain the correct income of the assessee, and, (ii). Whether the correct income has been offered for taxation and-if not to bring the shortfall to tax.

5.7 Now let us undertake a detailed analysis of the facts and the findings of the Survey to get a proper insight into the issue.

5.8 On the day of the survey, the reason put forth by the Partners for the deficit stock was that there were inflated purchases from sister concerns. It was explained that tags were created for such purchases using the customized 'Vahini Software package which ended up as inward stock in the software, thereby increasing the stock value without corresponding arrival of the goods.

5.9 The survey team also noted that bogus purchases were shown as sold off at discounts varying from 50% to 100%. This had the net effect of inflating the value of purchases-by 50% to 100% (difference between the Cost Price and Selling Price of such bogus purchases).

5.10 On the basis of the above findings, the survey team concluded that the difference between the physical stock and the stock as per 'Vahini Software' represented the inflation of purchases (Rs.(-)7,14,48,417/-) and as a corollary, income to this extent was suppressed.

5.11 This then, was the regular modus operandi of the assessee group to suppress their income. In such an event, all the Assessing Officer was required to do was to ascertain if the bogus purchases' from sister concerns were eliminated in the books of accounts finalized for that year, on the basis of which the return of income would be fled. If this had been done, the income would stand automatically restored to its correct level and no intervention would be called for by the Assessing Officer. If not, which meant that the assessee had persisted with the modus operandi exposed in the survey, the Assessing

*Officer would be required to intervene and make an addition on this issue.*

*5.12 It must be borne in mind that the net effect of the bogus purchases on the physical stock would be zero, since both these bogus purchases and subsequent fictitious sales at a discount, would get cancelled out in the books. The same would be true even in the 'Vahini Software as the purchases and sales in quantity terms would ultimately get cancelled out.*

*5.13 If the survey team found out difference in stock (between actual physical stock and the stock as per 'Vahini Software), a plausible reason could be that the sales corresponding to the bogus purchases for the current financial year remained to be booked. However, neither the survey team nor the Assessing Officer has brought out this fact clearly with reference to the books of accounts /purchase bills.*

*5.14 During the survey, a statement was recorded on oath from Shri D. Prathap, Head Cashier in the retail outlet at 100 Feet Road on 21.03.2014. In Q. No. 2 of his statement, he stated that he would occasionally receive tags with GSN but without goods from the warehouse and cash sale bills for the tags will be raised by him after allowing discount as directed by the Director/Partner. He would receive the cash (on tag value) from Shri Dhanabal. The sale bill value would be retained in the cash and the excess would be handed over to Shri R. Srinivasan. This implies that the bogus purchases are billed out and squared off on a day to day basis. Therefore, the possibility that the bogus purchases remained un-billed and were recorded as stock in the "Vahini Software on the date of the survey (as contemplated in Para 5.13 above) gets ruled out.*

*5.15 In his reply to Q. No. 13 of the statement recorded from the Partner Shri R.Srinivasan, he has clearly stated that from the F.Y 2011-12 onwards, the sister Concerns were used by them to inflate their purchases.*

*5.16 Further, on the date of the survey there was a specific finding-by the survey team that the total purchases made by the appellant firm from sister concerns during the F.Y 2013-14 (relevant to A.Y 2014-15) is only Rs. 54,36,250/-. This figure is available in Q. and Ans. No. 15 of the statement recorded on 21.03.2014 from the Partners and the break-up is as under:*

<b>Concern</b>	<b>A.Y 2012-13</b>	<b>A.Y 2013-14</b>	<b>A.Y 2014-15</b>
Aparna Fabs	38,22,300	53,53,125	14,80,300
Arun Tex	39,41,625	53,62,100	14,79,075
Balaji Textiles	83,66,699	1,10,45,947	--
Jagadish Fabrics HO	23,09,750	1,84,58,105	--
Jagadish Fabrics HO	48,29,425	36,03,575	11,39,650
Jayasree	38,34,200	51,49,875	13,37,225
<b>Total</b>	<b>2,61,03,999</b>	<b>4,88,72,727</b>	<b>54,36,250</b>

5.17 This being the case, a question ought to have immediately arisen in the mind of the Assessing Officer, as to how the inflation in purchases can be in excess of this amount of Rs. 54,36,250/-, leave alone an amount of Rs.7,14,48,417/- . Therefore, logic dictates that the difference in stock noted during the survey and which formed the basis for the addition by the Assessing Officer is not on account of the inflation of purchases. It also follows that the reasons must lie somewhere else.

5.18 No verification appears to be carried out by the Assessing Officer in this direction on the lines stated in Para 5.17 above. The Assessing Officer, simply on the strength of the statement given by the Partners during the survey, added the deficient stock. The Assessing Officer appears to have relied on the survey statement in toto and been misled by it.

5.19 From the answer No. 19 of the survey statement, it can be understood that the purchases were fed into the. System using bar codes through the 'Vahini Software' Before me, the appellant has explained that the 'Vahini Software is only used at the Sale Counters for billing purposes in which case, it would ideally only have the value of the sales captured in it. At the sale points, the bar code stickers/price tags on the sold items are scanned using a bar code reader and the bill is generated. There is force in the statement of the assessee that the Cost Price is not required to be fed into the billing system, which is a common business practice as the cost price is not required to be known or divulged to the salespersons. This being the case, it follows that the bar codes should only have contained the Selling Price of the item and therefore the stock statement generated by the survey team on the date of the survey should have been on the basis of the Selling Price and naturally a difference arose. Thus, the explanation for the difference is

available right here. The appellant provided reconciliation for the stock difference which was not paid heed to by the Assessing Officer. The reconciliation furnished by the assessee at the time of assessment proceedings is found to be more or less acceptable, given that a certain degree of approximation is always inevitable in such an exercise.

5.20 Sound accounting concepts only dictate that what always needs to be compared is the physical stock as on the closing date and the corresponding stock as per the books of accounts. Comparison with any other source of data can at best only offer clues to the Assessing Officer about the real state of affairs of the assessee and the AO is required to proceed further starting from such fact. In my Considered opinion, the difference between the physical stock and the stock as per the 'Vahini Software even on the date of the survey only offered a clue as to the modus operandi and could not be relied upon by itself as a source of addition.

5.21 The AO did not attempt to ascertain the purchases made during this time and then reconcile the closing stock shown in the books as on 31.03.2014, with the physical stock as on the date of survey. In his letter dated 22. 12.2016 addressed to the AO, the AR has clearly mentioned that the assessee had included the disputed items in the closing stock to facilitate early completion of the assessment and to avoid protracted litigation. The AO has not rebutted this claim of the appellant in a Convincing manner.

5.22 The AO has simply added the difference relying merely on the statement of the Partners at the time of the survey, without any reference to the books of accounts. The objections raised by the assessee to this treatment proposed by the AO, were brushed aside. Once the facts stated in the statement given during the survey are rebutted with specific reference to the accounts, then the onus is on the AO to prove the correctness of the survey statement before making any addition on the basis of such statement.

6.0 From the discussion made in the foregoing paras, I find it difficult to agree with the AO that the difference between figures found in Vahini Software and the physical stock of goods found in the premises should be assessed to tax. The statement given by the Director of the company, during the survey cannot be taken as a conclusive evidence unless it is

*corroborated with evidences. The AO also patently went wrong in not rebutting the reconciliation submitted-by the appellant. The AO has also failed to prove convincingly that the difference in stock value was due to inflation of purchases. Hence I hold that the addition on account of stock difference of Rs.7,14,48,417/- is not warranted, since the conclusion reached by the AO is not based on sound facts and legal principles of accounting. Therefore the addition is deleted."*

8. The Id. Sr. AR, Shri. AR V Sreenivasan, Addl. CIT, submitted that during the course of survey, physical stock was taken which shows deficit in stock in trade when compared to stock register maintained by the assessee in Vahini Software. A statement was recorded on 21.03.2014 from Shri. R. Srinivasan, Director of the company and in response to question no. 19, he has stated that the assessee had restored to inflation of purchases by entering the tag value of goods without actually receiving goods. The appellant had also admitted additional income towards inflation of purchases and also agreed to pay tax. However, came up with innovative arguments by stating that value in Vahini software is selling price for the purpose of sales at Counter and physical stock taken during the course of survey was at cost price and the mark up added in selling price is reduced, then there is no difference. But, if you go through the statement recorded

from the Director of the appellant company, it was very clear that the Director of the company was confronted with quantity and the valuation of the physical inventory taken and in response, he had agreed to the stock value adopted during survey. Therefore, from the above, it is very clear that the physical stock was inventoried as per bar code tags, similar to the rates in the Vahini software. Hence, there is no ground for assessee to argue that the method of valuation of stock was different in Vahini software and physical inventory prepared at the time of survey.

9. The Id. DR, further submitted that the assessee has adopted closing stock as on 31.03.2014, as per audited statement at Rs. 22,92,25,185/-. The assessee has included disputed items in the closing stock to facilitate early completion of assessment. If assessee disputed that closing value as per Vahini software is incorrect, the assessee could not have continued to adopt the value of closing stock as per the Vahini software as on 31.03.2014 in the audited financial statement. A survey was carried out on 20.03.2014. The audit report is dated 29.08.2014. Thus, the assessee has five

months to make correction, if any. The assessee's conduct proves that the stock as per Vahini software is correct. The Id. DR, further submitted that during the survey, the director have admitted in their statement that the purchases are inflated, in order to neutralize the effect of the bogus/inflated purchases, post the date of survey, the assessee ought to have adopted the correct value of the closing stock and then proceeded to ascertain the closing stock as on 31.03.2014, by not revising the stock value downward by Rs. 7,14,48,417/-, at the end of the financial year. The assessee has availed the benefit of bogus/inflated purchases. By continuing with the Vahini software, assessee has indulged in financial mischief by continuing with a factitious stock which would be the opening stock for the next year. Thus, addition was rightly made by the Assessing Officer. The Id. CIT(A), while giving relief to the assessee failed to understand this accounting mischief done by the assessee, in order to introduce its unaccounted income. Therefore, he submitted that the additions made by the Assessing Officer should be upheld.

10. The Ld. Counsel for the assessee, Shri. G. Sitharaman, CA, supporting the order of the CIT(A) submitted that there is no allegation from the Assessing Officer that there is a difference in quantity of stock found during the course of survey and quantity of stock as per books of accounts. The difference is on account of valuation of stock in trade. The survey team has taken physical stock at cost price, whereas, the valuation of goods as per Vahini software was at selling price, which included mark-up of the assessee. The assessee has added 25% mark-up on cost price, and if you exclude mark-up added on the cost price, then value of physical stock found during the course of survey matches with value of stock as per Vahini software. The assessee has filed reconciliation explaining difference in stock in trade with necessary details, but the Assessing Officer disregarded reconciliation filed by the assessee and made additions, on the basis of statement recorded from the Director of the appellant company that, the assessee restored to inflation of purchases. But, fact remains that there is no evidence with the Assessing Officer to allege that the assessee has inflated purchases. The statement recorded during the course of survey cannot be conclusive

evidence, unless such statement is supported by corroborative evidence. In the present case, there is no evidence with the Assessing Officer to allege that the assessee has inflated purchases in Vahini software. The Id. CIT(A), after considering relevant submissions has rightly deleted additions made by the Assessing Officer and their order should be upheld.

11. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. There is no dispute with regard to the fact that during the course of survey when physical stock was taken, there is a difference of Rs. 7,14,48,417/-, when compared to stock in trade as per Vahini software. It is also an admitted fact that there is no difference in quantity of stock in trade found during the course of survey and quantity of stock in trade as per Vahini software. In fact, the Assessing Officer never disputed this fact. The difference is only on account of valuation of stock in trade. According to the Ld. Counsel for the assessee, the survey team has taken physical stock at cost price as on the date of survey at Rs. 11,65,76,455/-. The value of stock in trade as per Vahini software as on the date of survey was at

Rs. 18,80,24,872/-. Thus, there is a deficit of Rs. 7,14,48,417/-. A statement of oath was recorded from Shri. R. Srinivasan, Director of appellant company and in response to question no. 19, he had stated that the appellant company was restored to inflation of purchases, by entering tags without goods, which resulted in the deficit stock and said inflation of purchases was effected through its sister concerns. Except statement recorded from the Director of the appellant company, there is no other corroborative evidence with the Assessing Officer to justify his findings that the assessee has restored to inflation of purchases. Although, the Assessing Officer has considered purchases from group firm as inflation of purchases, but the total purchases from appellant sister concerns during the financial year relevant to assessment year 2014-15 is much lower than the amount of deficit stock quantified by the survey team. Therefore, from the above it is difficult to accept the reasons given by the Assessing Officer to treat deficit quantified during the course of survey is on account of inflation of purchases.

12. Be that as it may, but fact remains that, the assessee has filed a reconciliation explaining difference in stock in trade quantified by the Assessing Officer with each item of stock in trade physically found during the course of survey with stock in trade as per Vahini software. The assessee had also proved that there is no difference in quantity of goods when compared with physical stock found during the course of survey and stock as per Vahini software. The assessee has explained the difference and according to the assessee, physical stock was taken at cost price, whereas the value of stock in Vahini software was at selling price. We find that, there is a force in the arguments of the assessee for the simple reason that, if you go by the nature of business carried out by the appellant, the arguments advanced by the Ld. Counsel for the assessee appears to be bonafide and acceptable. It is a general practice in retail trade of textile business that tag price is created for each stock in trade in the shop for the benefit of sales persons and the customers and such tag price is always the selling price, which includes profit margin of the assessee. In other words, each item of goods are created with a tag price which includes purchase price plus mark-up of the appellant.

Otherwise, at the time of sales, it is difficult for the sales people to ascertain cost price of each product. If you go by the general practice of the trade, the arguments of the assessee that the value as per Vahini software was at selling price is acceptable. If you accept the arguments of the assessee that the difference is on account of comparison of cost price with selling price, then in our considered view, the Assessing Officer has committed a fundamental error in ascertaining deficit stock in trade and further, assessment of said deficit as inflation of purchases. Since, the Assessing Officer has not quantified any difference in quantity of stock in trade found during the course of survey and stock in trade as per books of accounts, in our considered view, reconciliation submitted by the assessee explaining difference in stock in trade appears to be bonafied and acceptable. The Id. CIT(A), after considering relevant facts has rightly held that additions made by the Assessing Officer towards difference in stock in trade is unwarranted. Thus, we are inclined to uphold the findings of the Id. CIT(A) and dismiss appeal filed by the revenue.

**CO.No. 77/Chny/2019:**

13. The only issue that came up for our consideration from cross objection filed by the assessee is addition towards unproved purchases to the extent of Rs. 31,46,788/-. During the course of survey, certain purchases from group/sister concern were noted in Sl.no. 81 to 83 of the impugned material PSR/RB/Loose Sheet-1 dated 21.03.2014. The appellant was confronted with seized documents and in response to question no. 14, the Director of the appellant company stated that, purchases from group companies are not genuine. The bogus purchases from group companies are utilized for the purpose of inflation of purchases. Therefore, admitted that purchases from certain group companies are not genuine and also agreed to pay tax. During the course of assessment proceedings, the Assessing Officer called upon the assessee to explain the purchases from group concern with necessary details. The assessee stated that all group concerns are assessed to tax and also declared sales to appellant companies in their books of accounts. Since, purchases had been reflected in their books, same cannot be treated as unproved purchases. The Assessing Officer, however was not

convinced with explanation furnished by the assessee and according to the Assessing Officer, the statement recorded from the Director clearly shows that the appellant is indulged in booking bogus purchases through sister concerns for inflation of purchases. Thus, rejected arguments of the assessee and made additions of Rs. 31,46,788/-, to the total income of the assessee. On appeal, the Id. CIT(A) sustained additions made by the Assessing Officer.

14. The Ld. Counsel for the assessee, submitted that the appellant group/sister concern M/s. Aparna Fabs and M/s. Arun Textiles are assessed to tax for several years and also furnished their Permanent Account Number. The firms have filed confirmation with the financial statements and proved that purchases are included in the books of accounts. The Id. CIT(A), without appreciating relevant facts simply sustained additions made by the Assessing Officer.

15. The Id. Sr. AR, AR V Sreenivasan, Addl. CIT, supporting the order of the Id. CIT(A) submitted that documents found during the course of survey clearly shows purchases from

certain sister concerns are bogus in nature and further, purchases are mainly effected to reduce profit of the appellant. The Director in his sworn statement has confirmed that bogus purchases entries were utilized to inflation of purchases. The assessee could not satisfactorily explain. Therefore, the Assessing Officer and CIT(A), has rightly sustained additions made towards unproved purchases and their order should be upheld.

16. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. There is no dispute with regard to the fact that during the course of survey, certain loose sheets were found in the premises of the appellant pertains to purchases from certain group/sister concerns. The loose sheets were confronted to the Director of the appellant company, in a statement recorded on oath and in response to specific question, the Director of the appellant company admitted that the appellant has indulged in bogus purchases from certain group companies/firm for inflation of purchases. Since, the Director has confirmed inflation of purchases through group companies,

the confirmation filed by the assessee during assessment proceedings cannot negate the findings of the survey team regarding bogus nature of purchases. Therefore, we are of the considered view that there is no error in the reasons given by the Id. CIT(A) to sustain additions made towards unproved purchases and thus, we are inclined to uphold the findings of the Id. CIT(A) and dismiss grounds of cross objections filed by the appellant.

17. In the result, appeal filed by the revenue and cross objection filed by the assessee are dismissed.

**ITA 3257/Chny/2018 CO: 11/Chny/2019:**

18. The only issue that came up for our consideration from grounds of appeal filed by the revenue is deletion of additions made towards deficit in stock in trade found during the course of survey as unexplained purchases. We find that an identical issue had been considered by us in ITA No: 1639/Chny/2019 in the case of PSR Silk Sarees India Pvt Ltd., for assessment year 2014-15. The facts and issues involved in the present appeal filed by the revenue are identical to the facts and issues

which we have considered in ITA No. 1639/Chny/2019 in the case of PSR Silk Sarees India Pvt Ltd., for assessment year 2014-15. The reasons given by us in paragraph no. 11 & 12 shall *mutandis mutatis* apply to this appeal, as well. Therefore, for similar reasons, we are inclined to uphold the reasons given by the Id. CIT(A) to delete additions made towards stock in trade as inflation of purchases and dismiss appeal filed by the revenue.

**CO No: 11/Chny/2019:**

19. The only issue that came up for our consideration from cross objections filed by the assessee is sustaining additions made towards unproved purchases to the tune of Rs. 21,91,700/-. The Assessing Officer has made additions towards unproved purchases on the basis of statement of the appellant and their partners recorded during the course of survey, towards purchases from certain group/sister concerns as bogus in nature. The Id. CIT(A), after considering relevant facts has deleted additions to the tune of Rs. 8,94,815/- towards purchases from M/s. Jagadis Fabrics and M/s. Jayjasree, on the ground that the Assessing Officer could not

conclusively establish their bogus nature by way of subsequent sales at a discount etc and thus, sustained additions to the extent of Rs. 21,91,700/-, towards purchase from related/group companies. Before us, the assessee could not adduce any evidence to justify purchases from above concerns as genuine in nature, except stating that the parties have assessed to income tax and also filed their confirmation letter to prove the genuineness of purchases. Therefore, we are of the considered view that, there is no error in the reasons given by the Id. CIT(A) to sustain additions made towards unproved purchases to the tune of Rs. 21,91,700/- and thus, we are inclined to uphold the findings of the Id. CIT(A) and dismiss cross objections filed by the assessee.

20. In the result, appeal filed by the revenue and cross objection filed by the assessee are dismissed.

**ITA No: 2762/Chny/2019 for Assessment year 2014-15:**

21. In this case, during the course of survey excess stock of Rs. 95,53,872/- was found when compared to book stock as per Vahini software. The survey team found physical stock at

Rs. 3,71,61,612/-, as against book stock as per Vahini software at Rs. 2,76,07,740/-. A statement of oath was recorded from Shri. R. Srinivasan, partner of appellant firm, wherein he had admitted additional income of Rs. 2,26,38,998/-, towards inflation of purchases and Rs. 95,53,872/- towards excess stock. The Assessing Officer, on the basis of statement recorded from the assessee coupled with facts gathered during the course of survey, made additions at Rs. 3,21,92,870/-, towards inflation of purchases and excess stock. On appeal, the Id. CIT(A) deleted additions made towards difference in stock in trade and allowed partial relief towards additions made on account of unproved purchases, where the Id. CIT(A) has deleted additions amounting to Rs. 2,19,51,885/-, and sustained balance addition of Rs. 6,87,113/- towards purchases made from M/s. Balaji Textiles as bogus in nature. Aggrieved by the Id. CIT(A) order, the revenue is in appeal before us.

22. The Id. Sr. AR, Shri. AR V Sreenivasan, Addl. CIT, submitted that the Id. CIT(A) erred in deletion of addition made towards stock at Rs. 95,53,872/-, without appreciating

fact that the assessee could not reconcile stock difference and also failed to explain source for excess stock found during the course of survey. The Id. Sr. AR, further submitted that the assessee has admitted excess stock found during the course of survey and also offered for tax. But, the Id. CIT(A) without appreciating relevant facts simply deleted additions made by the Assessing Officer. He further, submitted that the assessee had also admitted Rs. 2,26,38,998/- towards unproved purchases from various parties in the statement recorded on 21.03.2014. But, the Id. CIT(A) deleted additions leaving behind Rs. 6.87 lakhs, by holding that addition has been made only on the basis of statement without there being any evidence, even though, the Assessing Officer vide Para 4.2 of the assessment order clearly given his findings towards bogus purchases made by the assessee. Therefore, he submitted that additions made by the Assessing Officer should be upheld.

23. The Ld. Counsel for the assessee, supporting the order of the Id. CIT(A) submitted that, the assessee has filed reconciliation explaining excess stock found during the course of survey, where it has been clearly explained that value of

stock as per Vahini software was at cost, because the appellant was a wholesale dealer, always keep stock in books of accounts at cost. The survey team has taken stock at selling of PSR Silk Sarees India Pvt Ltd and goods has tag price, which includes mark-up added by the assessee. If you exclude mark-up added on cost price, there is no difference as quantified by the Assessing Officer. The Id. CIT(A), after considering relevant submissions has rightly deleted additions made by the Assessing Officer and their order should be upheld.

24. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. During the course of survey, excess stock to the tune of Rs. 95,53,872/-, was found when compared to stock as per Vahini software. Admittedly, the assessee all along argued that value as per Vahini software is always selling price, however, when it comes to this assessee, the Ld. Counsel for the assessee argued that value as per Vahini software was at cost, because the sales were made only to sister concerns. We do not appreciate the arguments of the Ld. Counsel for the

assessee, for the simple reason that it is a common practice in trading that selling price is always tagged with goods for the benefit of the customers and the sales persons. In fact, we have admitted the arguments of the Ld. Counsel for the assessee that Vahini software price was always the selling price, when it comes to other two concerns namely, M/s. PSR Silk Sarees India Pvt Ltd., and M/s. PSR & Sons. Therefore, different arguments taken by the assessee in the present case that Vahini software is at cost and physical stock was taken at selling price is devoid of merits, because, in other two cases, the appellant argued that physical stock was taken at cost price and compared to Vahini software price which was at selling price. But, in the present case, the assessee argued reverse, where the appellant claims that Vahini software price was at cost and physical stock was taken at selling price. From the above arguments of the assessee, it is undoubtedly clear that the assessee could not explain difference in stock in trade found during the course of survey with necessary evidences. The reasons given by the assessee to reconcile excess stock found during the course of survey is not bonafied and unacceptable. The Id. CIT(A), without appreciating

relevant facts simply deleted additions made by the Assessing Officer. Therefore, we are of the considered view that additions made by the Assessing Officer towards excess stock found during the course of survey needs to be sustained. Thus, we set aside the order passed by the Id. CIT(A) on this issue and upheld additions made by the Assessing Officer towards excess stock found during the course of survey. We further make it very clear that, once additions is made towards excess stock found during the course of survey as income of the assessee, the said excess stock should be considered as part of closing stock of the assessee for the impugned assessment year and should be carry forward as opening stock for subsequent assessment years. Therefore, we direct the Assessing Officer to consider additions made towards excess stock found during the course of survey for the impugned assessment year as closing stock and also carry forward to subsequent year as opening stock in trade of the assessee.

25. The next issue that came up for our consideration is deletion of addition made toward inflation of purchases. The Assessing Officer has made additions of Rs. 2,26,38,998/-,

towards inflation of purchases made from sister concerns, on the ground that said purchases are bogus in nature. It is the explanation of the assessee before the Id. CIT(A) that purchases from group concern are genuine, which are supported by necessary evidences. The Id. CIT(A), after considering relevant submissions had recorded categorical finding that the Assessing Officer has considered purchases from 11 parties amounting to Rs. 2,21,31,109/- as bogus, without making any verification. On the other hand, the appellant had filed party-wise particulars for purchases and also filed letter of confirmation from various parties. The purchase invoices and books of accounts are also produced to prove that goods were received against each purchase bill.

26. The Id. Sr. AR, AR V Sreenivasan, Addl. CIT, submitted that the Id. CIT(A) has erred in deleting additions made towards inflation in purchases, without appreciating fact that evidence found during the course of survey clearly indicates purchases from certain group concerns are bogus in nature. Further, the partner of appellant firm in their sworn statement has admitted to have made bogus purchases for inflation of

purchases. The Id. CIT(A), without considering relevant facts simply deleted additions made by the Assessing Officer.

27. The Ld. Counsel for the assessee, supporting the order of the Id. CIT(A) submitted that the assessee has filed bills and other details to prove purchases as genuine. Further, the assessee had also furnished confirmation letter from all parties to prove their identity. Firms from where the assessee purchases goods are in existence for several years and also assessed to tax. The Id. CIT(A), after considering relevant facts has rightly deleted additions except purchases from M/s. Balaji Textiles, amounting to Rs. 6,87,113/- and thus, their order should be upheld.

28. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The Assessing Officer has made additions towards inflation of purchases, on the basis of certain loose purchase bills found during the course of survey, coupled with statement recorded from Shri. R. Srinivasan, partner of the appellant firm. Except statement recorded from partner of appellant

firm, the Assessing Officer does not have any corroborative evidence to prove that purchases from certain group concerns are bogus in nature. On the other hand, the appellant has filed all details including purchase bills and payment made against purchases through proper banking channel to prove the genuine nature of purchases. The appellant had also filed confirmation letter from the parties to prove the genuineness. The Assessing Officer, has made additions only on the basis of sworn statement without there being any corroborative evidence. It is well settled principle of law by the decision of Hon'ble High Court of Madras in the case of CIT vs S. khader Khan Son [2008] 300 ITR 157, that additions cannot be made solely on the basis of confession statement recorded during the course of survey, unless said statement is supported by corroborative evidence. In the present case, except statement from partner, no evidence with the Assessing Officer to prove that purchases from group/sister concern are bogus in nature. The Id. CIT(A), after considering relevant facts has rightly deleted additions except additions towards purchase from made from M/s. Balaji Textiles amounting to Rs. 6,87,113/-. The findings of the facts recorded by the Id. CIT(A) are

uncontroverted. Therefore, we are of the considered view that, there is no error in the reasons given by the Id. CIT(A) to delete additions made towards purchases and thus, we are inclined to uphold the findings of the Id. CIT(A) and dismiss appeal filed by the revenue.

**ITA No: 934/Chny/2019 for Assessment year 2009-10:**

29. The revenue has raised the following grounds of appeal:

*"1. The Ld. CIT(A) erred in deleting the addition of Rs.1,65,00,000/- u/s. 68 of the Income-tax Act, 1961, on the ground that the entire addition was made based on a sworn statement recorded from R.Srinivasan, one of the Directors of the Company.*

*2. The Ld. CIT(A) failed to consider that the four concerns from which the credits were found recorded in the books of account of the assessee company are Directors of the assessee company and close relatives of Directors.*

*3. The Ld. CIT(A) failed to consider the details of the enquiry conducted and statement recorded on 20.03.2014 with Shri G.R.Raviraj, Partner of one of the four entities called "Aparna Fabs" which is narrated in the assessment order, wherein in his statement Shri G.R. Raviraj has deposed in reply to Q.No.2 that "Aparna Fabs" is a concern used for inflating the purchases in the case of M/s. PSR & Sons, M/s. PSR Silk Sarees India Pvt. Ltd. and M/s. PSR Marketing Company. Initially bogus purchases from weavers will be booked in M/s. Aparna Fabs. Then these purchases will be shown as sales to M/s. PSR & Sons and other two concerns. But there will be no actual delivery of corresponding goods.*

*4. Whether the Ld. CIT(A) was right in law in not considering the provisions of S.68 of the Income-tax Act, 1961, which states that where the assessee is a company, (not being a company in which the public are substantially interested) and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee company shall be deemed to be not satisfactory, unless (a) the person, being a resident in whose name such credit is recorded in the books*

*of such company also offers an explanation about the nature and source of such sum so credited and (b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory. In the present case partner of "Aparna Fabs" Shri G.R.Raviraj has himself admitted the concern was formed for inflating the purchases of the assessee company.*

*5. The Ld. CIT(A) also erred in not considering the fact that the return of income filed in response to the statutory notice issued u/s. 148 of the Income-tax Act, 1961, for the Assessment Year 2009-10, the assessee company had admitted the undisclosed income of Rs. 1,65,00,000/-. The assessee's subsequent act of revising the income already admitted through a valid return of income filed in response to the statutory notice u/s. 148 of the Income Tax Act, 1961 appears to be an attempt to willfully evade taxes on the admitted income, perhaps as a result of an afterthought.*

*6. The Ld. CIT(A) erred in deciding the transactions are genuine due to the fact the deposits were made by these concerns by cheques drawn on the Bank accounts of the respective concerns. In proof of the same, the assessee had produced the Bank statements of relevant concerns for relevant period in which these amounts were debited by the Bank in their accounts. The mere fact that some transactions which have taken place by cheque, it cannot be said that these transactions are genuine. It is the burden on the assessee to establish the identity of the creditors, capacity of the creditors to advance money and genuineness of the transaction. In the present case, the assessee company itself has admitted that the transactions are bogus and the partner of the creditor concern "Aparna Fabs" has also admitted the fact that the concern was formed for inflating the purchases of the assessee company. During the Course of his statement in reply to Q.No. 12, he deposed that that the entire activity of the Concern M/s. Aparna Fabs is looked after by Shri R.Srinivasan, Director the assessee company and further deposed that there will be no actual sale from weavers of M/s. Aparna Fabs. Hence computer generated purchase bills will be raised by M/s. Aparna Fabs in the name of the weavers. Hence, it is evident that the transaction is not genuine.*

*7. The Hon'ble ITAT Is requested to cancel the order of the learned CIT(A) and uphold the order of the Assessing Officer.*

*8. The Hon'ble ITAT IS requested leave to add, amend or modify the grounds of appeal, if necessary, in future."*

30. The only issue that came up for our consideration from grounds of appeal filed by the revenue is deletion of addition of Rs. 1,65,00,000/- u/s. 68 of the Act. The facts with regard to the impugned dispute are that during the course of survey, it was noticed that the appellant company had received unsecured loans from M/s. Aparna Fabs, M/s. Arun Tex, M/s. Balaji Textiles, M/s. Jayjasree, amounting to Rs.1,65,00,000/-. A statement of oath was recorded from Director of the appellant company Shri. R. Srinivasan, where he has admitted that unsecured loans claimed to have been received from above parties are bogus accommodation entries. The Assessing Officer made additions towards unsecured loans received from above parties amounting to Rs. 1,65,00,000/- as unexplained cash credits taxable u/s. 68 of the Act. On appeal, the Id. CIT(A) deleted additions made by the Assessing Officer by holding that, the appellant has proved the identity of the creditors, genuineness of the transactions and creditworthiness of the creditors, which are the essential credentials to prove credit. Aggrieved by the Id. CIT(A) order, the revenue is in appeal before us.

31. The Id. Sr. AR, Shri. AR V Sreenivasan, Addl. CIT, submitted that the Id. CIT(A) erred in deleting additions of Rs. 1,65,00,000/- made u/s. 68 of the Act, without appreciating fact that Shri. R. Srinivasan, one of the Director of the company, in his sworn statement recorded during the course of survey admitted that, said unsecured loans are bogus accommodation entries received from group concerns. He further submitted that, Id. CIT(A) failed to appreciate the fact that the Directors of the assessee company and partners/creditors of creditors companies are close relatives and further, said firms are solely existed for the purpose of providing accommodation entries to the appellant and other group companies. Although, the Assessing Officer has brought out clear fact to prove that unsecured loans taken from group companies are bogus in nature, but the Id. CIT(A) has deleted additions without assigning proper reasons.

32. The Ld. Counsel for the assessee, Shri. G. Sitharaman, CA, supporting the order of the Id. CIT(A) submitted that, the appellant has filed all evidence to prove unsecured loans taken from four parties including their names, address and PAN

number and confirmation letters to prove identity, genuineness of transactions and creditworthiness of creditors. He further submitted that, loans have been taken through proper banking channels and the creditors have enough source of income to explain unsecured loans given to appellant. The creditors have assessed to tax and also declared loans given to appellant in their books of accounts for relevant assessment years. Although, the assessee has furnished all evidences, but the Assessing Officer has made addition only on the basis of statement recorded from partner of appellant firm during the course of survey, without any corroborative evidence. The Id. CIT(A), after considering relevant facts has rightly deleted additions made by the Assessing Officer and their order should be upheld.

33. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. Admittedly, addition made by the Assessing Officer towards unsecured loans received from four parties is on the basis of statement recorded from Shri. R. Srinivasan, partner of the appellant firm, during the course of survey proceedings.

Except statement recorded u/s. 131 of the Act, no other evidence was with the Assessing Officer to allege that unsecured loans from above parties are bogus in nature. On the other hand, the appellant has filed all evidences including confirmation letter from all creditors, along with PAN numbers. The appellant had also filed their financial statement along with income tax returns filed for relevant assessment years to prove that the creditors are having enough source of income to explain unsecured loans given to the assessee. Further, loans are taken through proper banking channels. The Id. CIT(A), recorded categorical findings that the appellant is able to file all evidences including copies of bank statement to prove that transfer of funds through proper banking channels. From the above, it is very clear that loans taken from M/s. Aparna Fabs, M/s. Arun Tex, M/s. Balaji Textiles, M/s. Jayjasree, are genuine in nature, which are supported by necessary evidence. It is well settled principle of law by the decision of Hon'ble Supreme Court in the case CIT vs S. khader Khan Son in 352 ITR 480, that additions cannot be made solely on the basis of statement recorded during the course of survey, unless said statement is supported by corroborative evidence. In the present case,

except statement recorded from managing partner of the appellant company, there is no evidence with the Assessing Officer to suggest that loan taken from above concerns are bogus in nature. The Id. CIT(A), after considering relevant facts has rightly deleted additions made by the Assessing Officer and thus, we are inclined to uphold the findings of the Id. CIT(A) and dismiss appeal filed by the revenue.

34. To sum up, all four appeals filed by the revenue and cross objections filed by two different assesseees' for assessment years 2009-10 & 2014-15 are dismissed

Order pronounced in the court on 11<sup>th</sup> October, 2023 at Chennai.

**Sd/-**  
(वी दुर्गा राव)  
**(V. DURGA RAO)**  
न्यायिकसदस्य/**Judicial Member**

**Sd/-**  
(मंजुनाथ. जी)  
**(MANJUNATHA. G)**  
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 11<sup>th</sup> October, 2023

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF