

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI
BEFORE,
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
ITA No.2860/Del/2023
(ASSESSMENT YEAR 2016-17)**

Polyspin Filtration India Pvt. Ltd. F-39, Phase-1 Ashok Vihar New Delhi-110 052 PAN-AAACP 8137C	Vs.	Income Tax Officer Ward-20(1) New Delhi
(Appellant)		(Respondent)

Assessee by	Sh. V. Raja Kumar, Adv.
Department by	Sh. Om Parkash, Sr. DR

Date of Hearing	18/01/2024
Date of Pronouncement	23/01/2024

ORDER

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Ld. CIT(A)'] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1055155394(1) dated 16/08/2023 against the order passed by Income Tax Officer, National Faceless Assessment Centre, Delhi (hereinafter referred to as the 'Ld. AO') u/s 147 r.w.s 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 23/02/2022.

2. The Ground No. (i) raised by the assessee was stated to be not pressed by the Id.AR at the time of hearing for which necessary

2,28,960/- and not received any sum from them. Hence the addition made by the ld. AO in the sum of Rs 2,28,960/- u/s 68 of the Act is hereby directed to be deleted.

6. As far as the purchase of goods from M/s Krishna Enterprise the assessee furnished the following documents before the lower authorities:-

a) Invoice issued by M/s Krishna Enterprise vide Invoice No. 695 dated 8.12.2015 containing the description of goods supplied with goods dispatch time at 1.10. P.M. The said invoice also contained the amount of Rs 8,411/- being Central Sales Tax suffered at the rate of 2% on the value of goods.

b) Copy of Bank Statement duly highlighting the payments made to M/s Krishna Enterprises out of funds available in the bank account.

c) Copy of ledger account of M/s Krishna Enterprise for the period 1.4.2015 to 31.3.2017 as appearing in the books of the assessee company to prove that the payments were made to the said supplier and the account had been completely squared off in the immediately succeeding year.

7. The ld. DR before me vehemently argued that the invoice issued by the supplier contains lot of deficiencies as it does not contain the signature of the receiver of goods, details of delivery of goods and the details of Order Number thereon. The ld. AR stated that the goods purchased from M/s Krishna Enterprise had been used by the assessee in its business. I find from the perusal of the

lower authorities that no cogent material has been brought on record by the revenue evidencing the cash trail between the assessee and M/s Krishna Enterprise. As far as the assessee is concerned, it had made payments to M/s Krishna Enterprise out of its regular banking channels. The revenue had not brought any material on record to prove that subsequent to payment by banking channels to the supplier, the supplier had in turn given back the cash to the assessee after reducing his / her commission if he / she is an accommodation entry provider. I find that the entire addition has been made in the hands of the assessee only on suspicion. It is trite law that suspicion howsoever strong cannot partake the character of legal evidence. Merely because M/s Krishna Enterprise had been classified as bogus concern by their VAT authorities, it does not mean all the transactions carried out by various parties with them including the assessee could be termed as bogus. What is required to be seen is that whether the said party had supplied the goods to the assessee and the said goods had been either consumed by the assessee or sold in the open market to a third party. This fact is not emanating from the orders of the lower authorities. Hence I deem it fit and appropriate to restore this issue to the file of ld. AO for denovo adjudication in accordance with law to give a factual finding in this regard. The assessee is at liberty to furnish further evidences, if any, in support of its contentions. Accordingly, the Ground No. (ii)(a) raised by the assessee is hereby allowed and Ground No. (ii)(b) raised by the assessee is allowed for statistical purposes.

8. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 23rd January, 2024.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 23/01/2024

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI