

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

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

**Sh. Yogesh Kumar US, Judicial Member**

**ITA No. 833/Del/2021 : Asstt. Year: 2012-13**

|  |    |   |
|--|----|---|
| JCIT(OSD),<br>Central Circle-26,<br>New Delhi-110055 | Vs | P L Computer & Communication<br>Pvt. Ltd., 110, Kundan House-16,<br>Nehru Place, New Delhi-110019 |
| (APPELLANT)  |    | (RESPONDENT)  |
| <b>PAN No. AAACP4481B</b>                            |    |   |

**CO No. 195/Del/2022 : Asstt. Year: 2012-13**

|   |    |  |
|---|----|--|
| P L Computer & Communication<br>Pvt. Ltd., 110, Kundan House-16,<br>Nehru Place, New Delhi-110019 | Vs | JCIT(OSD),<br>Central Circle-26,<br>New Delhi-110055 |
| (APPELLANT)   |    | (RESPONDENT)   |
| <b>PAN No. AAACP4481B</b>   |    |  |

**Assessee by : Sh. Rakesh Jain, Adv.**

**Revenue by : Ms. Sapna Bhatia, CIT-DR**

**Date of Hearing: 08.11.2023**

**Date of Pronouncement: 01.02.2024**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal and Cross Objection has been filed by the Revenue and the assessee against the order of Id. CIT(A)-29, New Delhi dated 27.05.2021.

2. Following grounds have been raised by the Revenue:

*"1. On the facts and in the circumstances of the case the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 4,41,55,629/- made by AO on account of bogus purchase/accommodation entries of purchase and addition of Rs. 8,83,113/- on account of commission paid*

*at the rate of 2% on accommodation entries taken on bogus purchases that during the assessment proceedings in the case of M/s Sai Infoweb Pvt. Ltd., M/s Macro IT System Private Limited and M/s Technosoft Infosystem Private Limited were found non-existent at the given address and in these cases assessment orders passed u/s 144 of the I.T. Act treating as paper/shell companies indulged in providing accommodation entries."*

3. In CO No. 195/Del/2022, the assessee has raised following grounds of objection:

*"1. Because the action for initiating, conducting and concluding the assessment proceedings u/s 153C read with section 153A/143(3) of the IT Act is contrary to the facts and circumstance of the case and also bad in the eyes of law.*

*2. Because the action is being challenged for observation of the Id. Assessing authority of the searched person as well as of the assessing authority of the appellant has erred in arriving to the conclusion that, tally data belonging to the Jain brothers found and seized from the residential premises of Shri Kaushal Kumar, belongs to the appellant.*

*3. Because the action is being challenged for satisfaction note recorded by both the AO's is non-speaking and no satisfaction note with regards to the sales & purchase, unsecured loans and commission transactions have neither been recorded by the AO of the searched person nor by AO of the appellant. Hence, addition in the hand of appellant has been made without recording of valid satisfaction note and the addition in the absence of compliance of such statutory compliance can't be sustained in law.*

*4. Because the action is being challenged on facts & law for making addition of Rs. 6,41,204/-i.e. (1.45% of Gross profit embedded in purchases of Rs. 4,42,,20929) ignoring explanations duly supported with-relevant documents filed by appellant."*

4. The assessee is a Private Limited Company incorporated under the Companies Act, 1956, engaged in business of trading computer parts and computer peripherals having its business from the computer hub of Nehru Place, New Delhi.

5. A Search u/s 132 of the Act was carried out on companies controlled by Anand Kumar Jain and Naresh Kumar Jain who are in the business of providing accommodation entries to various beneficiaries through cheques/DD/RTGS/NEFT in lieu of cash. The revenue held that the assessee has received bogus bills from Sai Infoweb Private Limited, Marcro IT Systems Pvt. Ltd., Technosoft Infosystem Pvt. Ltd., Southern Pacific Hotels Pvt. Ltd. and Mahadev Investments which are controlled by the above two persons and accordingly, the AO made addition of the amounts equivalent to the purchases shown by the assessee from these entities.

6. Aggrieved, the assessee filed appeal before the Id. CIT(A) who deleted the addition made by the Assessing Officer.

7. Aggrieved, the Revenue filed appeal before us.

8. Before us, the Id. DR relied on the order of the Assessing Officer and the Id. AR supported the order of the Id. CIT(A).

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

10. Before the Id. CIT(A), the assessee has submitted the following details:

- Details of opening and closing stock for each assessment year.
- Month wise details of sales and purchase.
- Party wise details of sales and purchases as asked by the AO of the appellant.
- Copy of stock register with quantity details of both inward and outward along with the value of goods duly supported by purchase and sales register ledger account.
- Copy of D-VAT returns for each period duly reconciled with books of accounts and mismatch report generated from the VAT department portal showing NIL mismatch for each period.
- Copy of bank statements with relevant narrations.
- Confirmation of accounts of parties treated as bogus.
- Complete set of books of accounts along with day to day stock register with the details of quantity and value for the year under consideration.
- The stock left with the assessee at the end of the each of the impugned accounting year as reflected in the financial statements of the assessee for which the return of income have been filed for each of the accounting period w.e.f. A.Y. 2012-13 to A.Y. 2015-16.

11. The assessee has also submitted the profit percentage and the turnover for various years is as under:

| Asstt. year | Sales (Rs.)  | Purchase(Rs.) | Gross Profit (Rs.) | GP Rate | Net Profit (Rs.) | NP Rate |
|-------------|--------------|---------------|--------------------|---------|------------------|---------|
| 2012- 13    | 64,49,46,877 | 64,23,21,180  | 93,46,790          | 1.44%   | 3,77,831         | 0.06%   |
| 2013-14     | 60,61,05,714 | 59,57,24,412  | 81,39,198          | 1.34%   | 6,33,934         | 0.10%   |
| 2014-15     | 57,67,77,692 | 55,88,94,706  | 84,00,207          | 1.34%   | 5,61,217         | 0.10%   |
| 2015-16     | 57,16,31,335 | 57,72,52,221  | 103,49,634         | 1.46%   | 6,37,632         | 0.11%   |
| 2016-17     | 55,91,53,226 | 54,76,26,248  | 123,42,691         | 1.81%   | 4,13,286         | 0.07%   |

12. If the bogus purchases are considered, the profit of the assessee would be as under:

| Asstt. Year | Sales (Rs.)  | Purchase (Rs.) | Purchases alleged and treated as bogus by AO | Net Purchases | Gross Profit (PBT) as after considering Bogus Purchase | GP % | Net Profit (PBT) as after considering Bogus Purchase |
|-------------|--------------|----------------|--|---------------|--|------|--|
| 2012-13     | 64,49,46,877 | 64,23,21,180   | 4,41,55,629                                  | 59,81,65,551  | 5,35,02,419  | 8.29 | 4,45,33,460  |
| 2013-14     | 60,61,05,714 | 59,57,24,412   | 16,38,596                                    | 59,40,85,816  | 97,77,794  | 1.61 | 22,72,530  |
| 2014-15     | 57,67,77,692 | 55,88,94,706   | 64,89,045                                    | 55,24,05,661  | 1,48,89,252  | 2.58 | 70,50,262  |
| 2015- 16    | 57,16,31,335 | 57,72,52,221   | 50,30,497                                    | 57,22,21,724  | 1,53,80,131  | 2.69 | 56,68,129  |
| 2016- 17    | 55,91,53,226 | 54,76,26,248   | ---  | 54,76,26,248  | 123,42,691S'   | 1.81 | 4,13,286   |

13. Before the Id. CIT(A), the assessee has relied upon the various judgments which are as under:

- Andaman Timber Industries Vs. CCE (2015 281 CTR 0241 (SC))
- PCIT Vs. Mohammad Haji Adam & Co. in ITA No. 1004 of 2016, order dated 11.02.2019
- N. K. Industries Vs. CIT (292 CTR 354) (Guj.)
- Hi Lux Automotive Pvt. Ltd. Vs. ITO (163 Taxman 90) (Del.)

- CIT Vs. Nikunj Exim Enterprises Pvt. Ltd. (372 ITR 619) (Bom.)
- CIT Vs. Simit P. Sheth (356 ITR 451) (Guj.)
- CIT Vs. Vijay M. Mistry Construction Ltd. in ITA 1090 of 2009, order dated 10.01.2011
- CIT Vs. Bholanath Poly Fab Pvt. Ltd. in ITA 63 of 2012, order dated 23.10.2012
- Vijay Proteins Pvt. Ltd. Vs. CIT (58 ITD 428)
- CIT Vs. M/s Nangalia Fabrics Pvt. Ltd. (220 Taxmann 17) (Guj.)
- Prakash Chand Mehta Vs. CIT (301 ITR 134) (M.P.)
- CIT Vs. SMC Share Brokerts Ltd. (288 ITR 345) (Del.)
- CIT Vs. S. M. Aggarwal (293 ITR 43) (Del.)
- Sai Lifestyles Pvt. Ltd. Vs. ACIT in ITA Nos. 4465, 4310, 4466, 4311, 4467/2010 dated 25.11.2011
- ACIT Vs. K.P. Sanghvi & Sons LLP in ITA No. 2455/2017 dated 28.09.2018
- Aggarwal Associates (Promoters) Ltd. Vs. DCIT in ITA No. 787/2016 dated 09.07.2019
- Sonal Parekh Vs. ITO in ITA Nos. 91, 92 and 93 of 2017 dated 09.12.2019
- PCIT Vs. Rishabhdev Tachnocable Ltd. in ITA No. 1330 of 2017 dated 10.02.2020
- PCIT Vs. Pinaki D. Panani in ITA No. 1543 of 2017 dated 08.01.2020
- Puspall Kumar Das, Kolkata Vs. ITO in ITA No. 1442/Kol./2012

14. The main points considered by the Id. CIT(A) are,

- (a) Presentation of all documents in support of the impugned purchases.
- (b) Acceptance of the corresponding Sales.
- (c) Tallying of Stock records
- (d) Payments made.
- (e) Receipts against the sales.
- (f) Confirmations of the parties.
- (g) Absence of any evidence to show that the money came back to the assessee to treat the purchases as non-genuine.

15. We further find that the Assessing Officer himself mentioned that the statement of Shri Ravinder Jain, Director of the assessee company was recorded during the course of Survey that purchases were made by the assessee in cash and out of books, a part of them were sold in cash and out of books. The said statement dated 08/06/2016 recorded during the course of Survey was later retracted by the Director Shri Ravinder Jain vide letter dated 14/07/2016 filed on 15/07/2106.

16. The Id. CIT(A) analyzed that if the purchases made from the parties were in the nature of accommodation entries then, there can be two scenarios, first being, whether these purchases have been made outside books or does not match with the quantitative tally and second being, whether such bills have been obtained merely to suppress the gross profit.

17. The first reason is absent in the instant case and as far as second reasoning is concerned, one has to see if purchases have been made through cheques, the source of which are from the books of accounts and if later on, cash has been received in lieu of such cheque but no purchases have been made, then clearly there would be a difference in quantitative tally of purchases as well as in the stock and if such a discrepancy has been found then purchases can be held to be bogus. But in the instant case no such difference in the quantitative tally has been found by the Assessing Officer.

18. Further, if the assessee after receiving the cash in lieu of the cheque has made purchases from the grey market for getting the same quantity of material in cash from some different vendor, then at the most it could be a case of suppressing of gross profit and accordingly addition could be made by enhancing the Gross Profit on such purchases.

19. In the instant case, the Books of account of the assessee are maintained and audited as per requirements of law and the AO has not rejected the Books of accounts maintained by the assessee u/s 145(3) of the Act. It is not in dispute that the sales were made by the assessee after the receipt of the goods and the sales have not been in dispute. The rationale is that no sale is possible without actual purchases. Further, no discrepancy in the details of stock filed by the assessee was pointed out by the AO. From the facts of the present case, the Id. CIT(A) rightly and logically held that the assessee has made purchase from the grey market, which have given it some other

indirect savings. Since, there were corresponding sales in respect of the alleged bogus purchases, the A.O. was not justified in making the addition of whole purchases holding the same to be bogus. Further, it is seen from the records that the gross profit rate of the assessee for the year was 1.45%. As seen from the Assessment Order that the alleged bogus purchases during the year are from M/s Sailnfoweb Pvt. Ltd. of Rs.2,80,73,621/-, from M/s Macro IT Systems of Rs.70,45,433/- and Technosoft Infosystems Pvt. Ltd. of Rs.91,01,875/- aggregating to Rs.4,42,20,929/-, the Id. CIT(A) has rightly restricted the addition to the extent of 1.45% of gross profit embedded in such purchases i.e. 1.45% of Rs.4,42,20,929/- which amounts to Rs.6,41,204/-, the decision of which, we hereby affirm.

20. Since, the appeal of the Revenue is dismissed, the Cross Objection filed by the assessee is dismissed as in fructuous.

21. In the result, the appeal of the Revenue and the Cross Objection of the assessee are dismissed.

Order Pronounced in the Open Court on 01/02/2024.

**Sd/-**  
**(Yogesh Kumar US)**  
**Judicial Member**

**Sd/-**  
**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 01/02/2024**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**