

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, AM  
AND MS. KAVITHA RAJAGOPAL, JM**

ITA No. 2672/Mum/2024  
(Assessment Year: 2017-18)

DCIT-CC-8(2) 658, 6 <sup>th</sup> Floor, Aaykar Bhawan, Mumbai-400 020	Vs.	Shrivallabh Pittie Industries Limited 97 Maker Tower F, Cuffe Parade, Mumbai-400 005
PAN/GIR No. AAKCA 8820 H		
(Assessee)	:	(Respondent)
<b>Revenue by</b>	:	Ms. Priyanka Borar
<b>Assessee by</b>	:	Shri Ashok Kumar Ambastha
<b>Date of Hearing</b>	:	16.07.2024
<b>Date of Pronouncement</b>	:	14.10.2024

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the Revenue, challenging the order of the learned Commissioner of Income Tax (Appeals) (‘Id.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2017-18.

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

1. *On the facts and in the circumstances of the case and in law, the ld. CIT(A) erred in deleting the addition of Rs.1,37,09,672/- under section 69C of the Income Tax Act, 1961 on account of alleged commission income, by holding that the addition was not made on the basis of any incriminating material found during the course of search proceedings in the case of Oneworld Group, without appreciating the fact that addition on the issue of commission income was already made in the order u/s. 153A of the Act, and the addition made u/s. 153C of the Act was merely rectification of mistake apparent from record.*

3. Brief facts of the case are that the assessee is a public limited company engaged in manufacturing of yarn and had filed its return of income on 20.12.2017, declaring total loss at Rs.126,34,91,000/-. Pursuant to a search and seizure action u/s.132 of the Act

carried out at the business premises of One World Industries Pvt. Ltd. and others dated 06.11.2019, the Id. Assessing Officer (Id. A.O. for short) issued notice dated 23.06.2021 u/s.153C of the Act for A.Ys. 2014-15 to 2019-20 and u/s. 143(2) of the Act for A.Y. 2020 to 2021. The assessee filed its return of income in response to notice u/s. 153C of the Act. The assessee's case was transferred to Id. A.O., CC-8(2) who then issued notice u/s. 142(1) of the Act dated 10.11.2021, requiring the assessee to file details pertaining to the sales and purchases entered into by the assessee with various group companies of One World Industries Pvt. Ltd. which are alleged to be accommodation entry providers. It is also observed that a search and seizure action was also carried out on Shrivallabh Pittie group entities (SVP group) dated 22.08.2017. Further, subsequent to the search action, the assessee had filed an application before the Hon'ble Income Tax Settlement Commission ('Hon'ble ITSC' for short) dated 14.10.2019 which was rejected vide order dated 14.12.2020 u/s.245D(4) of the Act for the reason that all material facts were not fully and truly disclosed before the Hon'ble ITSC. The Id. A.O. passed the assessment order in the case of SVP group entities dated 26.02.2021 u/s.144 r.w.s. 153A of the Act for A.Y. 2012-13 to 2017-18 and u/s. 143(3) for A.Y. 2018-19 where the Id. A.O. made various additions including addition u/s. 69C of the Act towards commission paid on alleged accommodation entries on sales and purchases @ 3% of the said transaction. The Id. A.O. then passed the impugned assessment order dated 15.03.2022 u/s.153C of the Act, determining the total income at Rs.507,17,51,030/-, after making an addition on the balanced figure, which was missed out while assessing the total income of the assessee u/s.144 r.w.s. 153A of the Act towards bogus purchases and sales amounting to Rs.45,69,89,091/- at 3% of the said amount, aggregating to Rs.1,37,09,672/-.

4. Aggrieved the assessee was in appeal before the first appellate authority, challenging the assessment order.

5. The Id. CIT(A) vide order dated 29.02.2024, deleted the impugned addition that the materials which were unearthed during the search conducted in One World Industries Pvt. Ltd has already been considered while framing the assessment u/s.153A of the Act and that the impugned addition made by the Id. A.O. was without any new incriminating material found or seized during the search of One World group entities.

6. The Revenue is in appeal before us, challenging the impugned order of the Id. CIT(A).

7. We have heard the rival submissions and perused the materials available on record. It is observed that the Revenue has challenged the deletion of addition by the Id. CIT(A) which was made by the Id. A.O. It is evident that the Id. A.O. has made the impugned addition to the extent of the difference amount of bogus purchases and sales entered into by the assessee which was inadvertently left out while determining the total income in the assessment order passed u/s. 144 r.w.s. 153A of the Act dated 26.02.2021, which was estimated at Rs.79,31,88,913/- instead of Rs.125,01,78,004/-, the difference amount being Rs.45,69,89,091/- which pertains to the bogus transaction related to One World group. The Id. A.O. added 3% on the difference amount to the total income of the assessee. The Id. CIT(A), on the other hand, held that the Id. A.O. has merely made the addition based on the incriminating material that was already relied upon by the Id. A.O. in section 153A proceeding and in the absence of any new incriminating material deleted the impugned addition. The Id. CIT(A) further held that the Id. A.O. has made the

addition to rectify the mistake apparent from the record in the assessment order passed u/s.153A r.w.s. 144 of the Act dated 26.02.2021 which has erroneously not made the addition on the actual sales and purchase figures while computing the commission income. The Id. CIT(A) further has directed the Id. A.O. to rectify the mistake apparent from the record in the assessment order passed u/s. 153A r.w.s. 144 of the Act in the case of the assessee dated 26.02.2021 and to determine the commission income according to the actual amount of bogus sales and purchases.

8. In the above factual matrix of the case, we find no infirmity in the order of the Id. CIT(A) in deleting the addition of Rs.1,37,09,672/- made u/s. 69C of the Act and in directing the Id. A.O. to rectify the mistake apparent from record in the assessment order passed u/s. 153A r.w.s. 144 of the Act. We, therefore, dismiss the ground of appeal raised by the Revenue.

9. In the result, the appeal filed by the Revenue is dismissed.

*Order pronounced in the open court on 14.10.2024.*

Sd/-

(N K Billaiya)

Accountant Member

Mumbai; Dated :14.10.2024

Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)

Judicial Member

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai