

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 512/DEL/2024 [A.Y. 2012]

The Income tax Officer New Delhi	Vs.	Mittal Woollens Pvt Ltd 129/130 DDA Market, Apna Bazar Nehru Nagar, New Delhi
(Applicant)		PAN - AAACM 5511 B (Respondent)

Assessee By : Ms. Monalisa Maity, Adv

Department By : Shri Ajay Kumar Arora, Sr. DR

Date of Hearing : 05.11.2024

Date of Pronouncement : 05.11.2024

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the Revenue is preferred against the order of the
ld. CIT(A), Delhi dated 22.11.2023 pertaining to A.Y. 2012

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

“1. That the order of the Id. CIT(A) factually incorrect in restricting the addition made by the Assessing Officer of Rs. 2,35,54,901/- on account of bogus purchases made by the assessee and they could not furnish the relevant details and supporting documents of its claim.

2. That the Id. CIT(A) has erred in deleting the addition made by the Assessing Officer and taken GP rate @ 6.4% without any basis and scientific approach.”

3. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

4. Briefly stated, the facts of the case are that the Assessing Officer made addition of Rs. 2,35,54,903/- on account of bogus purchases made by the assessee as the assessee could not produce relevant documents and supporting documents in support of its claim.

5. When the assessee went in appeal before the Id. CIT(A), the Id. CIT(A) deleted the addition made by the Assessing Officer and took the GP rate @ 6.84%.

6. Aggrieved, the Revenue is in appeal before us. The ld. DR supporting the findings of the Assessing Officer submitted that the onus was on the assessee to produce all the relevant details and supporting documents to establish the genuineness of the purchases and since the assessee has failed to discharge the onus cast upon it, the action of the Assessing Officer is fully justified and the CIT(A) grossly erred in restricting the addition. The entire addition deserves to be sustained.

7. Per contra, the ld. AR vehemently stated that the assessing officer has grossly erred in ignoring the direct evidences furnished by the assessee in support of genuineness of the purchases. It is the say of the ld. AR that the entire addition has been made by the Assessing Officer and partly sustained by the CIT(A) only on the ground that the assessee could not produce the relevant details and documentary evidence.

8. The ld. counsel for the assessee strongly stated that merely because the details and documents could not be produced, would not mean that the purchases are bogus. The ld. counsel for the assessee argued that the sales transaction has not been disputed. The books of account have not been rejected and stock statement is accepted and no adverse inference has

been drawn. The ld. counsel for the assessee vehemently submitted that since the books of account have not been rejected, the Assessing Officer cannot consider the purchases as bogus.

9. We have heard the rival submissions and have perused the relevant material on record. We find that the Assessing Officer has made addition of Rs,2,35,54,903/- on account of bogus purchase u/s 69C of the Income tax Act 1961, on the ground that the assessee did not establish the genuineness of the entities from whom purchases were made and there was no independent confirmation from the relevant parties.

10. With regard to the purchases, we are in conformity with the observation of the ld. CIT(A) that if purchases to the tune of Rs.2,35,54,903/- out of total purchase of Rs.2,37,99,613/-, are treated as bogus, the sales to the tune of Rs. 2,45,97,188/- is not possible. We are also in conformity with the CIT(A)'s findings that except for issue of notice u/s 133(6) of the Act, the Assessing Officer has not made any further inquiries either during the assessment proceedings or during the appellate/remand proceedings. Since the assessee has filed various

documents during the remand proceedings to substantiate the purchases along with confirmation, the onus has shifted to the Assessing Officer. The Assessing Officer was required to examine these parties and bring out for the facts regarding the genuineness of the purchase or otherwise which he failed to do so.

11. We are, therefore, of the considered opinion that the action of the Assessing Officer of considering the purchases as bogus but accepting simultaneously the corresponding sales as genuine, is not valid. The assessing officer has neither disturbed the book result nor has rejected the books of account produced before him during the remand proceedings. We also note that the sales have been duly assessed by the Haryana Sales Tax Department for the AY 2012-13. Therefore, the onus was on the Assessing Officer to bring out cogent evidence to support his claim. Simply because the notices u/s 133(6) remains uncompiled with, cannot be the sole reason for making/considering the entire purchase as bogus. We also note that the assessing officer has not made any independent enquiry to substantiate the additions made on account of bogus purchase. In the absence of any corroborative evidence

brought on record, we do not find any merit in the addition so made. Accordingly, we direct the Assessing Officer to delete the addition of Rs. 2,35,54,903/-. The Ground No. 1 raised by the Revenue stands dismissed.

12. With respect to the addition made on the basis of G.P. on account of certain unpaid creditor, we endorse the action of the Id. CIT(A). The ground no. 2 is, accordingly, dismissed.

13. In the result, the appeal of the Revenue in ITA No. 512/DEL/2024 is dismissed.

The order is pronounced in the open court on 05.11.2024.

Sd/-

[VIKAS AWASTHY]
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 05th November, 2024.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	