

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 1979, 1980 & 1981 /Bang/2024
Assessment Year: 2018-19

Excellent Power Controls, No.B-97, 2 <sup>nd</sup> Cross, 1 <sup>st</sup> Stage, Near SBI, Peenya Industrial Estate, Bangalore – 560 058.  <b>PAN – AACFE 6915 A</b>	Vs.	The Dy. Commissioner of Income Tax, Circle – 6(1)(1), Bengaluru. .
APPELLANT		RESPONDENT

Assessee by	:	Shri R Chandrashekar, Advocate
Revenue by	:	Shri V Parithivel, JCIT (DR)

Date of hearing	:	25.11.2024
Date of Pronouncement	:	28.11.2024

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

These appeals filed by the assessee are against the order passed by the NFAC, Delhi all dated 21/08/2024 for the assessment year 2018-19.

**ITA 1979/Bang/2024, an appeal by the assessee for the AY 2018-19**

2. The sole issue raised by the assessee is that the learned CIT(A) erred in confirming the addition of ₹35,36,222/-, representing genuine purchases, treated as bogus.

3. The assessee, a partnership firm engaged in manufacturing electric panel boards, was subjected to scrutiny assessment proceedings. Based on information from the Commercial Tax Department, the AO found certain entities allegedly engaged in issuing bogus sales invoices to facilitate fraudulent input tax credit claims and reduce their taxable income. Among the flagged entities were M/s Supreme International and M/s Puspak Impex. The AO noted purchases from these entities amounting to ₹27,69,501/- and ₹7,66,721/-, aggregating to ₹35,36,222/- only by the assessee. Consequently, the AO suspected these purchases as non-genuine and sought clarifications from the assessee. Despite repeated reminders, no response was received from the assessee.

4. The AO further observed that M/s Supreme International and M/s Puspak Impex had not filed their Income Tax Returns. In the absence of any response from the assessee and considering the flagged entities and their non-compliance, the AO treated the purchases of ₹35,36,222/- as bogus. Relying on Section 69C of the Income Tax Act, 1961, the AO classified these purchases as unexplained expenditure and added them to the assessee's total income.

5. Aggrieved, the assessee filed an appeal before the CIT(A), contending that:

- a) Notices issued by the AO through the e-portal were not duly communicated, preventing the assessee from making representations during the assessment proceedings.

b) The AO's reliance on information from the Commercial Tax Department without independent inquiry or confronting the selling dealers violated principles of natural justice.

c) The purchases were backed by purchase bills, duly recorded in the books of accounts, e-way bills indicating transportation modes, and banking transactions.

d) The AO did not question the genuineness of sales, which would not be possible without corresponding purchases.

e) The suppliers were GST-registered entities, and the non-filing of their income tax returns could not be held against the assessee.

6. Without prejudice, the assessee argued that the addition should, at most, be limited to the profit element embedded in the alleged bogus purchases, not the full amount.

7. It was also submitted by the assessee that there is no dispute regarding the source of payment for the impugned purchases. Therefore, such payments cannot be classified as unexplained expenditure under the provisions of Section 69C of the Income Tax Act, 1961. Consequently, these purchases cannot be subjected to the tax provisions outlined under Section 115BBE of the Act.

8. However, the learned CIT(A) rejected the assessee's contentions by observing that:

a) Crucial documents such as delivery challans, stock registers, vehicle numbers, weighing slips, and transportation bills were not provided.

b) The authenticity of the purchases could not be substantiated merely through purchase bills and banking payments.

c) The transactions were not confirmed by the flagged parties.

8.1 In view of the above, the Id. CIT-A rejected the contentions of the AO and upheld the AO's findings.

9. Aggrieved by the CIT(A)'s decision, the assessee appealed before the Tribunal, presenting a paper book (pages 1–87) and arguing that E-way bills indicated vehicle numbers, confirming actual delivery of goods which is placed on pages 15 and 19 of the paper books. The Id. AR also submitted that the ex-parte assessment prevented the assessee from furnishing the necessary evidence. Accordingly, a request was made by the Id. AR to remit the matter to the AO for fresh adjudication as per law with an assurance to provide requisite documents.

10. On the other hand, the Departmental Representative (DR) supported the lower authorities' decisions but raised no serious objection to remanding the matter to the AO.

11. We have heard and considered the rival submissions and reviewed the materials available on record. From the preceding discussion, we note that the assessee furnished purchase bills, e-way bills, and bank

payment records supporting the transactions. There was no defect pointed out by the authorities with respect to such documents below except that the Commercial Tax Department's report alleging bogus supplies which requires independent verification, but the AO has not done so. Furthermore, it was the ex-parte assessment, and no remand report was called for by the Id. CIT(A). It is pertinent to note that the Id. CIT-A also noted the assessee's failure to provide certain supporting documents. Thus, in the interest of justice, we are inclined to grant the assessee another opportunity to substantiate the genuineness of the purchases. The issue is thus remanded to the AO for a de-novo assessment as per the law. The assessee is at the liberty to produce the necessary all evidence to be presented during the reassessment. Hence, the ground of appeal is allowed for statistical purposes.

12. In the result, the appeal of the assessee is hereby allowed for statistical purposes.

13. For ITA Nos. 1980 and 1981/Bang/2024 concerning AY 2018–19, the issues were similarly remanded to the AO for fresh adjudication in light of the quantum appeal.

14. All appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in court on 28<sup>th</sup> day of November, 2024

Sd/-

**(KESHAV DUBEY)**

Judicial Member

Bangalore

Dated, 28<sup>th</sup> November, 2024

/ vms /

Sd/-

**(WASEEM AHMED)**

Accountant Member

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore