

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI**

**BEFORE JUSTICE (RETD.) SHRI C.V. BHADANG, PRESIDENT
AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.	A.Y.	Appellant	Respondent
3686/Mum/2024	2010-11	Reliance Metafab, 20, Maheshwar Niwas, Tilak Road, Santacruz (West), Mumbai [PAN: AAHFR5828E]	Income Tax Officer, Ward-22(3)(1), Piramal Chambers, Dr. S.S.Rao Marg, Parel, Mumbai
3685/Mum/2024	2011-12		
3736/Mum/2024	2010-11	Income Tax Officer, Ward-22(3)(1), Piramal Chambers, Dr. S.S.Rao Marg, Parel, Mumbai	Reliance Metafab, 20, Maheshwar Niwas, Tilak Road, Santacruz (West), Mumbai [PAN: AAHFR5828E]
3771/Mum/2024	2011-12		

For Assessee :	Shri Rajesh Shah
For Revenue :	Shri R.R. Makwana, Sr.DR

Date of Hearing :	09-12-2024
Date of Pronouncement :	09-12-2024

ORDER

PER B.R. BASKARAN, A.M :

These cross appeals are directed against the orders passed by the Ld. CIT(A)-NFAC, Delhi and they relate to the Assessment Years (AYs.) 2010-11 and 2011-12. The addition relating to alleged bogus purchases

made by the AO was partially confirmed by the Ld.CIT(A). Hence both the parties are in appeal.

2. The assessee is a partnership firm. It is engaged in the business of manufacturing/fabrication/dealing in Cable Trays, Gratings, Electrical items etc. The AO received information from the Investigation wing that certain parties have provided only accommodation bills without actually supplying materials and the assessee is one of the beneficiaries who availed accommodation bills. Accordingly, the AO reopened the assessments of AY 2010-11 and 2011-12 by issuing notice u/s 148 of the Act. As per the information given by the Investigation wing, the assessee has taken accommodation bill from the following parties:-

<u>Assessment year</u>	<u>Name of Party</u>	<u>Amount</u>
2010-11	Hitech Impex	4,14,107
2011-12	Mahavir Sales Corpn	52,042

During the course of assessment proceedings, the assessee furnished the copies of purchase bills, purchase and sales register, bank statements, ledger account copies to prove the purchases made from the above said parties. However, the assessee could not produce stock register and quantity wise stock statement. The AO also issued notice u/s 133(6) of the Act to both the parties, but no reply was received from them. Hence, the AO treated the above said purchases as bogus in nature and disallowed the entire amount.

3. Besides the above, the AO also issued notices u/s 133(6) of the Act to certain other suppliers in order to verify other purchases. For the year relevant to AY 2010-11, the AO issued notices to five parties and for the year relevant to AY 2011-12, he issued notice to one party. The AO did not

receive any reply from those parties. Further, the assessee also did not furnish any documents to prove the purchases made from them. Accordingly, the AO disallowed a sum of Rs.57,65,979/- in AY 2010-11 and Rs.95,70,287/- in AY 2011-12.

4. The assessee filed appeals before the Ld CIT(A) challenging the above said additions. The Ld A.R submitted that the assessee furnished all the details relating to purchases made from all the six parties before the Ld CIT(A). Accordingly, the Ld CIT(A) called for a remand report from the AO. He submitted that the Ld CIT(A) heard the assessee several times, but hearing could not be completed in the absence of remand report. He submitted that the assessee also met the AO at least three times requesting him to send the remand report. However, the AO did not send the remand report. Hence, the Ld CIT(A) disposed of the appeals and did not refer anything about the above mentioned proceedings. However, the Ld CIT(A) gave partial relief to the assessee sustaining addition to the extent of 15% of entire disallowances made by the AO in both the years.

5. Aggrieved by the orders passed by the Ld CIT(A), both the parties are in appeal.

6. We heard the parties and perused the record. We notice that the assessee has furnished all the documents to prove the purchases made from alleged accommodation entry providers before the AO during the course of assessment proceedings and to Ld CIT(A) in respect of purchases made from other suppliers. According to the Ld A.R, the Ld CIT(A) also called for a remand from the AO. The Ld A.R submitted that the AO did not furnish remand report in respect of documents furnished to support the purchases made from other suppliers. We notice that the AO has made the impugned disallowance only for the reason that the notices issued by him

u/s 133(6) of the Act were not responded. We notice that the AO did not use other legal course available to him to verify the purchases. With regard to the stock register, the Ld A.R submitted that these materials were consumed in the manufacturing of goods and hence the question of linking the purchases with sales will not arise.

7. In respect of alleged accommodation entries by way of purchases, we are of the view that the addition sustained by Ld CIT(A) to the extent of 15% is reasonable. When the assessee has purchased and consumed the materials, it is reasonable to estimate the profit element, if any, involved in the said transaction. Accordingly, we confirm the order passed by the Ld CIT(A) in respect of purchases made from accommodation entry providers.

8. With regard to the disallowance of purchases made from other suppliers, we notice that the AO had made disallowance only for the reason that they have not responded to the notices issued by him. As noticed earlier, the AO could have used other legal options available to him to verify the purchases. It may not be in the control of the assessee to compel the suppliers to respond to the notice issued by the AO. However, it was submitted that the assessee has furnished all the documents in support of those purchases before the Ld CIT(A), but the AO did not furnish his comments about them by way of remand report. Under these set of facts, we are of the view that the assessee cannot be found fault with the failure of the suppliers in responding to the notices issued to them by the AO. The tax authorities also did not find any deficiency in the documents furnished by the assessee. Accordingly, we are of the view that the AO was not justified in disallowing purchases made from other suppliers, i.e., Rs.57,65,979/- made in AY 2010-11 and Rs.95,70,287/- made in AY 2011-12. Accordingly, we set aside the order passed by Ld CIT(A) on this issue in both the years under consideration and direct the

Reliance Metafab, batch

AO to delete the addition of Rs.57,65,979/- made in AY 2010-11 and Rs.95,70,287/- made in AY 2011-12.

9. In the result, both the appeals of the assessee are partly allowed and both the appeals of the Revenue are dismissed.

Order pronounced in the open court on 09-12-2024

Sd/-
(JUSTICE (RETD.) C.V. BHADANG)
PRESIDENT

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai,

Date: 09-12-2024

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "D" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai