

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 5696/MUM/2024  
(Assessment Year : 2016-17)**

**&**

**ITA No. 5698/MUM/2024  
(Assessment Year : 2018-19)**

ACIT CC 7 2 Mumbai Room No. 637 6 <sup>th</sup> Floor Aayakar Bhavan M K Road Mumbai - 400020	Vs.	M/s Patodia Filaments Pvt Ltd, A-603/604, 6 <sup>th</sup> Floor Express Highway Goregaon (East) - 400063
<b>PAN/GIR No.AABCP8673J</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

**&**

**ITA No. 5699/MUM/2024  
(Assessment Year : 2016-17)**

**&**

**ITA No. 5697/MUM/2024  
(Assessment Year : 2018-19)**

Patodia Filaments Pvt Ltd, A-603/604, 6 <sup>th</sup> Floor Express Zone, Opp Oberoi Mall, Western Express Highway, Goregaon (East) - 400063	Vs.	DCIT-CC-7(2), Mumbai Aayakar Bhawan, Mumbai - 400020
<b>PAN/GIR No.AABCP8673J</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Mr. Mani Jain
Revenue by	Shri Mahesh Pamnani (Sr DR)
<b>Date of Hearing</b>	<b>19/12/2024</b>
<b>Date of Pronouncement</b>	<b>31/12/2024</b>

### आदेश / ORDER

#### PER BENCH:

The aforesaid cross appeals have been filed by the assessee as well as by the Revenue against separate order of even date 02/09/2024 passed by CIT(A)-49, Mumbai for the quantum of assessment passed u/s.147 for the A.Y.2016-17 & 2018-19.

2. The issues involved in both the years are common therefore, same are being disposed of by way of this consolidated order.

3. In this case the addition has been made on account of bogus purchases made from following two parties in A.Y.2016-17 and 2018-19.

#### **2016-17**

Sr. No.	Name of the Entity	Amount of Purchases (Rs.)
1.	SVG Style & Textile Company Pvt. Ltd.	27,69,63,221/-
2.	Rathi Style & Textile Pvt. Ltd.	24,14,51,251/-
<b>Total</b>		<b>51,84,14,472/-</b>

**2018-19**

<i>Sr. No.</i>	<i>Name of the Entity</i>	<i>Amount of Purchases (Rs.)</i>
1.	<i>SVG Style &amp; Textile Company Pvt. Ltd.</i>	<i>46,94,54,017/-</i>
2.	<i>Rathi Style &amp; Textile Pvt. Ltd.</i>	<i>3,25,59,928/-</i>
<b>Total</b>		<b>50,20,13,945/-</b>

4. The return of income was filed u/s.139(1) for A.Y.2016-17 on 12/10/2016 declaring total income of Rs.56,67,670/-; and for A.Y. 2018-19 on 30/10/2018 declaring total income of Rs.6,52,23,470/-. In A.Y.2016-17, the case was reopened u/s. 147 based on information received from the Office of DDIT (Inv.) Mumbai that one Shri Gopal Bhattar, Director of M/s. SVG Style & Textile Company Pvt. Ltd. and another company controlled and managed by same person were providing bogus purchase bills. In his statement recorded u/s.131, he accepted that these companies are not doing any actual business and are providing bogus bills / accommodation entries to various beneficiaries. Further, it was found that assessee is one of the beneficiaries to whom bogus bills have been issued. In the assessment order, ld. AO has also incorporated a statement of Shri Gopal Bhattar. Finally, he made an addition after applying GP rate of 12.5% on purchases made from these two entities which worked out to Rs.6,48,01,809/- in A.Y.2016-17 and Rs.6,58,59,330/- in A.Y.2018-19.

5. The ld. CIT(A) following the judgment of the Hon'ble Bombay High Court in the case of **PCIT vs. Mohammad Haji Adam & Co., reported in 103 taxmann.com 459 and Nikunj Eximp Enterprises (P) Ltd., reported in 35 taxmann.com 384** and catena of other decisions of the Tribunal, observed and held as under:-

*“14.7 It is observed that the appellant has two business vertical i.e. manufacturing and trading. In respect of the goods purchased from the alleged parties, the same were used for trading without being utilized for the manufacturing process. The appellant has submitted that the details of purchases made from non-genuine parties and its corresponding sales before the AO along with gross profit earned on them and gross profit earned on remaining trading transactions. The A.O has not doubted the sales of the appellant. Hence, in the facts of the case, the decision of Hon'ble Bombay High court in case Mohommad Haji Adam & Co as discussed above is applicable. As there is no allegation with respect to evasion of sales tax/GST, the other decisions restricting the percentage profit are not applicable.*

*14.8 As per the gross profit working submitted by the appellant, the gross profit shown on the sales made out of non-genuine purchases is 1.10% as compared to the gross profit of 1.11% made on sales from genuine purchases. Accordingly, on applying the ratio of the Jurisdictional High Court in the case of Mohommad Haji Adam & Co (Supra), I find that the gross profit earned on both the type of purchases are almost identical and comparable. Therefore, following the decision of Jurisdictional High Court, the addition is directed to be deleted. Accordingly, ground no. 3,4 & 5 of the appeal are ALLOWED.”*

6. Similar view was taken in A.Y.2018-19 also. Thus, the ld. CIT (A) following the principles laid down by the Hon'ble Bombay High Court held that the gross profit shown on the sales made out of non-genuine purchases is 1.10% as compared to the gross

profit of 1.11% made on sales from genuine purchases. Accordingly, he directed the ld. AO to delete the addition. In A.Y.2016-17. In A.Y.2018-19, he held that since assessee has disclosed gross profit margin from genuine purchases at 1.38% however, the gross profit margin in respect of alleged bogus purchases was 0.50% which is less than over the gross profit by 0.88% and accordingly, he sustained the addition by applying GP rate 0.88% and accordingly, addition was confirmed to the extent of Rs.45,62,047/-.

7. We have heard both the parties and also perused the relevant finding given in the impugned orders. First of all, it is not in dispute that assessee had disclosed the source of all the purchases from its books and the quantitative details of the purchases and the sales have not been disputed. It is for this reason ld. AO had applied GP rate of 12.5% on the purchases. The ld. CIT (A) following the judgment of the Hon'ble Bombay High Court held that the GP rate on purchases which have been accepted to be genuine is to be applied on alleged bogus purchases. From the perusal of the material placed on record and the submissions made before the ld. CIT (A), it is seen that assessee is dealing in the business of manufacturing of fabrics as well as trading in fabrics. It had made fabric purchases of more than Rs.49.80 Crores. The only purchases made from these two parties have been doubted on which GP rate has been applied. The assessee to prove the genuineness of the purchases made from both the parties has produced the following documents:-

- Copy of the Invoices received on account of purchases made.
- Copy of the Ledger Account of M/s SVG Style and Textile Company in the books of appellant
- Corresponding to the purchases made, payment made through the bank alongwith the copy of the bank statement.
- Details of corresponding sales on such purchases including quantity wise sales and purchases.
- Copy of delivery challans of the purchases made.

8. Once the assessee had provided the details of corresponding sales on such purchases, delivery challans and the quantity of purchases alongwith payments made through banking channels backed by invoices, then without rejecting the books of accounts or corresponding sales, the trading results and Gross Profit cannot be disturbed. The sole reliance has been placed on the statement of one person who was handling affairs of these two companies and that he was providing bogus bill, addition has been made by applying higher GP rate. Nowhere has it been pointed out that in his statement he has given the name of the assessee or stated that assessee was also provided any kind of accommodation bill. Once the quantitative details of purchase and sales which tallies with the trading results and overall gross profit has been accepted and corresponding one to one sale of the purchases made from these parties alongwith delivery challans has been shown, then, no addition can be made by applying any kind of GP rate. As noted above, ld. CIT (A) in

A.Y.2016-17 has deleted the addition and in A.Y.2018-19 he has applied GP rate of 0.88% by taking difference. This difference for making addition on account of GP rate of 0.88% is not justified when there is no such finding that there is some discrepancy in the purchases and sales. Accordingly, the entire addition made by the ld. AO and partly confirmed by the ld. CIT (A) is deleted.

**8. In the result, Revenue's appeals are dismissed and assessee's appeals are allowed.**

Order pronounced on 31<sup>st</sup> December, 2024.

**Sd/-**  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**  
Mumbai; Dated 31/12/2024  
KARUNA, *sr.ps*

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)

**ITAT, Mumbai**