

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “E” BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.7381/Del/2017
Assessment Year : 2014-15**

| | | |
|---|------------------------------|--|
| ACIT, Circle-28(1), New Delhi-110002. | Vs | Sh.Mohit Saraogi, C-676, New Friends Colony, New Delhi-110065. PAN-AOFPS2703D |
| APPELLANT | | RESPONDENT |
| Appellant by | Ms. Aman Preet, Sr.DR | |
| Respondent by | Sh.Bhupender Jit Kumar, Adv. | |
| Date of Hearing | 22.03.2021 | |
| Date of Pronouncement | 26.03.2021 | |

PER KUL BHARAT, JM :

This appeal by the Revenue is directed against the order of Ld. CIT(A)-31, New Delhi dated 20.09.2017 pertaining to assessment year 2014-15. The Revenue has raised following grounds of appeal:-

1. *“On the facts and circumstances of the case, the Ld.CIT(A) has erred in law on facts in deleting addition of Rs.2,04,36,269/- made by the Assessing Officer on account of bogus purchases without appreciating the facts that the physical verification of the address of the referred three creditors has revealed that their addresses were locked and uninhabited for previous many years.*
2. *On the facts and circumstances of the case, the Ld.CIT(A) has erred in law and on facts by overlooking the fact that the above three parties have purchased the raw materials from the same parties who also do not exist on their declared business premise.*

3. *On the facts and circumstances of the case, the Ld.CIT(A) has erred in law and on facts by overlooking the fact that the referred three creditors having trade turnover in crores have employed only one employee and exist without maintaining any godown or without having any contractual transporter to transfer goods to purchasers.*

4. *On the facts and circumstances of the case, the Ld.CIT(A) has erred in law and on facts by overlooking the fact that the referred three creditors are running their business from same premise i.e. D-193, Gali No.8, Laxmi Nagar, Delhi and are related to each other. Ms. Pooja Jain, Proprietor of M/s. Pooja Fashions and Sh.Pankaj Jain, Director of M/s. Expo Fabs Pvt.Ltd. are children of Smt. Heeramani Jain. All family members are running their business with different entities from the same place.”*

2. The only effective ground raised by the Revenue is against the deletion of addition of Rs.2,04,36,629/- made on account of bogus purchases.

3. Facts giving rise to the present appeal are that the case of the assessee was selected for compulsory scrutiny through CASS. The Assessing Officer during the course of assessment proceedings called upon the assessee to give details of sundry creditors, purchases exceeding sum of Rs.50,000/- and details of purchases above Rs.01 Lakh made during the year. In response thereto, the assessee filed reply furnishing the details as called for. While framing the assessment, the Assessing Officer doubted the genuineness of purchases made by the assessee from three parties namely M/s. Heramani Impacts; M/s. Pooja Fashions & M/s. P. S.

Expo Fabric Pvt.Ltd. After examination of details filed by two parties, the Assessing Officer disallowed the purchases made on the following grounds:-

(i) *“All the three parties are running their business from D-193, Gali No.8, Laxmi Nagar, Delhi-110092. However, the premise is closed for a long time as is evident from the ITI report as well as statement recorded on oath of Smt. Heeramani Jain and Shri Pankaj Jain.*

(ii) *All the three parties are related to each other. Ms. Pooja Jain, Proprietor of M/s. Pooja Fashions and Shri Pankaj Jain, Director of M/s Expo Fabs Pvt.ltd. are children of Smt. Heeramani Jain. All family members are running their business with different entities from the same place.*

(iii) *All are running their business from residential premises i.e. 73, Vijay Laxmi Apartment, Indraprastha Extension, Patparganj, Delhi.*

(iv) *Both Smt. heeramani Jain and Shri Pankaj Jain run their business through phone.”*

4. Hence, the Assessing Officer assessed the income at Rs. 2,64,20,900/- against the returned income of Rs.59,84,270/-. Aggrieved assessee preferred the appeal who after considering the material available on record and examining the assessment framed by the Assessing Officer deleted the addition. Aggrieved against the deletion, the Revenue is in appeal before us.

5. The Ld. DR vehemently argued that the CIT(A) was not justified in deleting the addition as the Assessing Officer has given a categorical finding that the purchases made by the assessee from three parties could not be proved by furnishing the material evidences. Ld. DR further submitted that the notices were served upon three parties and inquiry was made by

the Inspector who reported that on the given address, no activity was being carried out as such the premises was locked. Ld DR. further submitted that it was incumbent upon the assessee to prove the purchases. The assessee has miserably failed to dispel the suspicion of the Assessing Officer that the purchases were bogus. Ld. DR further submitted that the Ld. CIT(A) has failed to take note of the fact that parties were not having sufficient funds to make purchases. Therefore, the Assessing Officer was justified in making the disallowance and adding the same in the income of the assessee.

6. Per contra, the Ld. Counsel for the assessee opposed these submissions and supported the order of the Ld. CIT(A). Ld. Counsel for the assessee further took us through the assessment order as well as impugned order to buttress the contention that assessee had furnished every details to the Assessing Officer. Further he submitted that the Assessing Officer has not brought any material on record that these purchases were bogus. Merely a bald observation has been made regarding the purchases. He further submitted that the Assessing Officer has not doubted the veracity of the accounts and the accounts have not been rejected. The Assessing Officer has also not doubted about the sales. The figures of sales made by the assessee is not disturbed. Under these facts and circumstances, the Ld. CIT(A) was justified in deleting the addition.

7. We have heard the rival submissions and perused the material on record and gone through the orders of the authorities below. We find that

the Assessing Officer has disallowed the purchases made from M/s. Heeramani Impex amounting to Rs.28,40,083/-; purchases made from M/s. P.S. Expo Fabs Pvt.Ltd. amounting to Rs.1,37,19,629/- and purchases made from M/s. Heeramani Impex amounting to Rs.38,76,917/-. Hence, out of the total purchases as observed by the CIT(A) of Rs.11,07,31,239/-, only purchases of the value of Rs.2,04,36,629/- was doubted by the Assessing Officer. Ld. CIT(A) deleted the disallowance by giving finding on facts as under:-

“4.3.6. “The reasons for selection of the case in scrutiny as inferable from Assessing Officer’s records are

- (i) Large commission expenses and low net profit*
- (ii) Large other expenses claim in P&L account*
- (iii) Mismatch in amount paid to related parties u/s 40(A)(2)(b).*

I find that no adverse inference has been drawn by the Assessing Officer specifically with regard to the above three parameters.

4.3.7. I find that the appellant had made purchases of Rs.11,07,31,239/-. Out of these, purchases of the value of Rs.2,04,36,629/- have been doubted by the AO, for reasons which do not stand judicial scrutiny.

The aforesaid three persons have duly confirmed the sales. The appellant who is the buyer has also confirmed the purchases. Payments have been made by account payee cheques. The sellers have sold good to several buyers and received cheques in their respective bank accounts. The evidence of dispatch of goods and receipt of goods has been proved. Moreover, the Assessing Officer has not disturbed the quantitative tally of sales made by the appellant. If sales made are genuine then so are the purchases corresponding to the same, which too have taken place, actually.”

8. The above finding on facts is not rebutted by the Revenue by placing cogent evidence. The Assessing Officer has not doubted the book results. Moreover, the Assessing Officer has not given any adverse finding regarding the issues for which the case was selected for scrutiny. Further, the Assessing Officer has not disturbed the sale. There is no whisper about out of book sales made by the assessee. We, therefore, do not see any reason to interfere in the finding of the Ld.CIT(A). The grounds raised by the Revenue are hence, rejected.

9. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court during the course of virtual hearing on 26th March 2021.

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI