

No additions on account of unexplained purchases if entries in trading account found to be correct

Summary – The Delhi ITAT in a recent case of Manoj Sharma, (the Assessee) held that where entries in assessee's trading account including quantitative tally of purchases, opening stock, sales and closing stock were found to be correct, no addition on account of unexplained purchases could be made

Facts

- The assessee was engaged in the business of trading in scrap metals. During the course of assessment, Assessing Officer opined that certain purchases were in nature of bogus purchases on the ground that assessee had obtained purchase bills from three parties who were owned and controlled by 'V', who in the course of their assessment proceedings had admitted that they were providing bogus purchase bills/accommodation entries bills to the concerned parties.
- Based on said information, addition was made to assessee's income under section 69C as bogus purchases.
- The Commissioner (Appeals) confirmed said addition.
- On second appeal:

Held

- From the perusal of the bills as placed in the paper book, it is seen that assessee has shown purchase of steel scraps, aluminium scraps, brass scraps and in these bills, lorry / truck number for delivery has also been mentioned which is even evident from the scanned copy of one particular bill in the impugned order. The purchases admittedly have been made through account payee cheque and the source of the purchases are from the books of account as it is not the case of Assessing Officer that purchases from any party is outside books of account.
- Once the quantity of opening stock and purchases on the debit side; and sales and closing stock in the credit side in the books of account has been accepted, then to hold that the some quantity of purchases recorded in the books are unexplained or outside books of account, is very difficult proposition to accept. Because, the quantitative details of stock, purchases, sales have not been discarded or any defect has been found, then purchases as debited in the books of account cannot be added under section 69C. Here in this case, even balancing figure of the gross profit shown by the assessee has not disturbed. Even if it is to be accepted that the purchases made from the three parties were in the nature of accommodation entries, then it has to be seen, firstly, whether these purchases have been made outside books or does not matches with the quantitative tally; or secondly, whether such bills have been obtained merely to suppress the gross profit. Ostensibly, the first reason is lacking here in this case as discussed above; and insofar as the second reasoning is concerned, one has to examine, if purchases have been made through cheques, the source of which

are from the books of account and if later on, cash has been received in lieu of such cheque but no purchases have been made, then clearly there would be a difference in quantitative tally of purchases as well as in the stock and such a discrepancy has been found then purchases can be held to be bogus. But here in this case no such difference in the quantitative tally has been found. Further, if assessee after receiving the cash in lieu of the cheque has made purchases from the grey market for getting the same quantity of material in cash from some different vender, then at the most it could be a case of the suppressing of gross profit. In other words, assessee has debited higher amount for the purchase which in fact has purchased the same material and quantity at a lesser amount, thereby suppressing the gross profit. Under these circumstances any addition at all which could be made, is by enhancing the Gross Profit on such purchases. Nowhere there is a finding or whisper either by the Assessing Officer or Commissioner (Appeals) that the gross profit shown by the assessee during the year was less as compared to earlier or subsequent years or there is any material to show that gross profit has been low during the year. If all the entries in the trading account including the quantitative tally of purchases, opening stock, sales and closing stock were found to be correct and no discrepancy was found, no addition on account of unexplained purchases could be made, because nowhere it had been found that assessee had made purchases outside the books. The entire finding of the Commissioner (Appeals) hinges upon the fact that there was material indicating purchase under consideration are bogus without even appreciating that if the source of purchases are from the books and through account payee cheque, then how such purchases can be treated as unaccounted. Since gross profit rate and gross profit has been accepted including the trading account then no such addition can be made. In the result on merits addition made by the Assessing Officer is deleted and consequently assessee's appeal is allowed.

- In the result appeal of the assessee is allowed.