

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F" NEW DELHI**

**BEFORE SHRI G.S. PANNU, VICE PRESIDENT  
&  
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

I.T.A. No.1843/DEL/2018  
Assessment Year 2009-10

Parnami Pump & Projects Pvt. Ltd., c/o Kapil Goel Adv., F-26/124 Sector 7, Rohini, Delhi.	v.	DCIT, Circle-19(2), New Delhi.
TAN/PAN: AADCP 0717D (Appellant)		(Respondent)

Appellant by:	Shri Kapil Goel, Adv.		
Respondent by:	Shri Surender Pal, Sr.D.R.		
Date of hearing:	17	10	2019
Date of pronouncement:	14	01	2020

**ORDER**

**PER AMIT SHUKLA, J.M.:**

The aforesaid appeal has been filed by the Assessee against the impugned order dated 02.01.2018, passed by Id. CIT(A)-VII, New Delhi for the quantum of assessment passed u/s.143(3)/147 for the Assessment Year 2009-10. In various grounds of appeal, the assessee has challenged the validity of reopening u/s.147 and addition of Rs.8 lacs on account of alleged bogus bill in the name of M/s. Vee Gee Industrial Enterprises.

2. The facts in brief are that the assessee has filed its return of income on 15.09.2009 declaring income of Rs.51,46,341/-. The said return was duly processed u/s.

143(1). Later on, information was received from the office of ADIT (Inv.)-II, Faridabad dated 23.03.2016 along with bank statement of the assessee wherein assessee-company had issued a cheque in favour of M/s. Vee Gee Industrial Enterprises. As per the said information, M/s. Vee Gee Industrial Enterprises was mainly engaged in large value credits from the business and individuals in other banks followed by immediate cash withdrawals. On inquiry, it was found that no such business was carried out by the said entity and perusal of the bank statement also revealed that there is no statutory payment like VAT, Excise duty, etc. Further, no freight payment has been observed from bank records. Accordingly, it was found that the said entity was providing bogus billing. In wake of this information assessee's case was reopened u/s 147/148 after recording following reasons:

*"In this case, the assessee company M/s Parnami Pump & Projects Pvt. Ltd., 102, Sita Ram Mansion, 718/21, Joshi Road, Karol Bagh, New Delhi (PAN: AADCP0717D, had filed the original return of income on 15.09.2009 declaring an income of Rs.54,18,852/-.*

2. *Subsequently, information has been received from the Office of the Assistant Director of Income-tax (Inv.)-II, New CGO Complex, NH-IV, Faridabad dated 23.03.2016 addressed to this office containing the following information:-*

*"In this regard, I am enclosing herewith a bank account statement of M/s. Vee Gee Industrial Enterprises, Faridabad and cheque image vide cheque no.559394 dated 08/08/2008.*

*Perusal fo bank a/c statement of M/s. Vee Gee Industrial Enterprises having A/c No.008305007424 reveals that M/s Pamami Pump & Project Pvt. Ltd. issued a cheque in favour of M/s Vee Gee Industrial Enterprises of ICICI Bank Ltd. The activity of Vee Gee Industrial Enterprises has mainly been large value credits from business & individuals in other banks followed by immediate cash withdrawals. On filed enquiry, it is noticed that no such business is carried out by M/s Vee Gee Industrial Enterprises. Perusal of bank a/c statement also reveals that there is no payment of any statutory nature like payment of VAT / Excise duty etc. M/s Vee Gee Industrial Enterprises is into trading of iron and steel as per KYC, but no freight payment can be observed from the bank records. Prima facie, no payment of administrative nature can also be seen from the perusal of bank records. From this entire pattern it appears to be a case of bogus billing. Details of cheque / RTGS issued in favour of M/s. Vee Gee Industrial Enterprises are as under :-*

<i>S. No.</i>	<i>Amount</i>	<i>Cheque No.</i>	<i>Date</i>
<i>1.</i>	<i>8,00,000</i>	<i>559394</i>	<i>08/08/2008</i>

*3. Therefore, I have reason to believe that income chargeable to tax has escaped assessment. Accordingly, notice u/s 148 of the Income-tax Act, 1961 is proposed to be taken on this issue also. In view of the above position of law, it is requested that necessary administrative approval u/s 151 for the issue notice u/s 148 of the Act may kindly be accorded.*

*4. Since this is a case where notice u/s 148 is proposed to be issued after expiry of a period of four years from the end of the relevant assessment year, the Pr. Commissioner of Income-*

*tax, Delhi -7, New Delhi is empowered to sanction the issue of notice u/s 151 of the Income-tax Act, 1961. Necessary approval of the Pr. Commissioner is solicited u/s 151(1) of the Income-tax Act, 196L -*

*DCIT, Cir 19(2)”*

3. In response to the said notices, the assessee has filed objection before the Assessing Officer vide letter dated 15.11.2016. The assessee stated that it has purchased iron and steel from M/s. Vee Gee Industrial Enterprises and supplier is registered with VAT and also gave the TIN number. Accordingly, it was stated that it was a genuine purchase of goods with the supplier having VAT and TIN number. The ld. Assessing Officer disposed of the said objection vide separate order dated 23.11.2016. Thereafter, the Assessing Officer issued summons u/s.131 to the proprietor of M/s. Vee Gee Industrial Enterprises. However, no one appeared nor any reply was filed. The assessee was therefore asked to establish the genuineness of the transaction. However, the assessee reiterated that it has filed copy of purchase bills, copy of computation of total income, audited final accounts, etc. However, ld. Assessing Officer based on material on record and inquiry carried out by the Investigation Wing and failure to comply with the summons issued u/s.131, came to the conclusion that purchase is bogus and made the addition of Rs.8 lacs.

4. Ld. CIT(A), first of all, dismissed the assessee's objection for validity of reopening u/s.147 holding that Assessing

Officer has not acted mechanically before framing the reason to believe and has applied his mind and considering the information before him after taking due approval. Since there was a specific detail in the information of the amount and in respect of entity from whom the assessee has taken accommodation entry, therefore, the formation of reason to believe is sufficient and Assessing Officer did not need to establish the fact or sufficiency of the reasons. Accordingly, he dismissed the assessee's ground on the jurisdictional issue.

5. Regarding addition of Rs.8 lac on account of unexplained purchases, Ld. CIT (A) had taken note of the fact that the proprietor of M/s. Vee Gee Industrial Enterprises, Shri Sanjay Kumar failed to comply with the summons issued u/s.131 nor any reply was filed and the assessee could not produce the Director/Principal Officers and no compliance was made in furnishing the evidence. Ld. CIT (A) after detailed discussion and relying upon the various judgments has confirmed the said addition.

6. Before us, ld. counsel for the assessee submitted that here in this case, the Assessing Officer has recorded the reason to believe on borrowed satisfaction simply based on information received from Investigation Wing and has not applied his mind independently. In support, he relied upon the following judgments.

*i). Delhi High Court in the case of Sabh Infrastructure Ltd. vs. ACIT, order dated 25.09.2017.*

*ii) Delhi High Court in the case of PCIT vs. G & G Pharma India Ltd., order dated 08.10.2015*

*iii) Delhi High Court in the case of PCIT vs. Meenakshi Overseas Pvt. Ltd., order dated 26.05.2017.*

*iv) Delhi High Court in the case of PCIT vs. RMG Polyvinyl Ltd., order dated 07.07.2017.*

7. On merits, he submitted that assessee has produced the invoices, purchase bills, details of VAT and TIN number of the supplier, the source of these purchases are from books. Once corresponding sale have been accepted, therefore, no addition on account of bogus purchases can be made. Alternatively, he submitted that entire purchases cannot be made and GP rate can be applied here in the case of the assessee @ 6%.

8. On the other hand, ld. DR strongly relied upon the order of the Assessing Officer and CIT (A) and submitted that it is a clear case of accommodation entry and even the notices sent to the party remained uncomplied with.

9. We have heard the rival submissions and also perused the relevant findings given in the impugned orders as well as the material placed on record. From the perusal of the reasons recorded, we find that the Investigation Wing during the course of inquiry has found that assessee has issued a cheque in favour of M/s. Vee Gee Industrial Enterprises and said entity was not found to carry out any business nor any

statutory payment like VAT/Excise Duty, etc. was paid which was statutory requirement for a person or entity carrying out such a trade. Apart from that, there is no freight payment also. Since in the inquiry, specific cheque number and account was found which is tallying with the assessee's bank account then there is a prima facie reason to believe that transaction is not genuine and such a material is sufficient to clothe the Assessing Officer to acquire jurisdiction to reopen the assessment. The Assessing Officer at the stage of recording the reasons and issuance of notice need not need to establish fact. Thus, the finding of the Ld. CIT (A) upholding the validity of reopening u/s.147 is upheld.

10. In so far as the merits is concerned, we find that the Assessing Officer had issued summons u/s.131 to the proprietor of the said entity from whom assessee has made purchases, but that remained uncomplied with nor assessee could produce the party. However, on the other hand, the sources of purchase have gone from the books of the assessee and there is a corresponding sale. In such a situation at the most even if assessee has made bogus purchases through cheque from the sources disclosed in the books of account and thereafter has taken accommodation entry and has received the cash back, then the same goods must have purchased from the grey market in cash, Since sales and purchase quantity wise details in the trading account has not been disturbed then at the most it could be a case of suppression of gross profit. Under these circumstances, we

hold that addition on account of enhancement GP on the said purchase would be reasonable. Hence, we direct the Assessing Officer to apply 8% GP on the alleged bogus purchases. Accordingly, the appeal of the assessee is partly allowed.

11. In the result, the appeal of the assessee is partly allowed.

**Order pronounced in the open Court on 14<sup>th</sup> January, 2020.**

Sd/-

Sd/-  
**[G.S. PANNU]**  
**VICE PRESIDENT**

**[AMIT SHUKLA]**  
**JUDICIAL MEMBER**

DATED: 14<sup>th</sup> January, 2020

PKK: