No Addition under Income Tax Law on Bogus Purchases, Where Sales Are Accepted and Supplies Are Backed by GST Records and Banking Trail

The ITAT, Kolkata Bench in ***M/s Diach Chemicals & Pigments Pvt. Ltd. v. DCIT, Central Circle 4(2), Kolkata [ITA Nos. 1469 & 1470/KOL/2025 dated May 21, 2026]*** set aside the addition sustained by the Commissioner of Income-tax (Appeals) on account of alleged bogus purchases and held that where the impugned purchases are duly backed by tax invoices, e-way bills, lorry receipts, weighment slips, GSTR-1 and GSTR-3B returns filed by the suppliers and payments routed through banking channels, and where the corresponding sales stand accepted, the purchases cannot be branded bogus merely on the strength of a statement recorded during search or on suspicion — more so when the input tax credit availed on such purchases stands allowed by the GST authorities.

Facts:

- M/s Diach Chemicals & Pigments Pvt. Ltd. (**"the Assessee"**) is a manufacturer and supplier of pure lead and lead alloys (Antimonial Lead Alloy, Calcium Lead Alloy, High Tin Lead Alloy, Lead Oxide, High Antimonial Lead and Lead Tin Alloy) and supplies material to M/s Exide Industries Ltd.

- A search under Section 132 of the Income-tax Act, 1961 (**"the IT Act"**) was conducted on December 07, 2021, pursuant to which the case was reopened under Section 147 by issuing notice under Section 148.

- The Assessing Officer (**"AO"**) alleged that purchases of ₹40,05,56,388/- from seven suppliers were from non-existent parties, relying heavily on a statement recorded during search. The books were rejected under Section 145(3) and a Gross Profit (**"GP"**) rate of 6% was applied on the alleged bogus purchases; after allowing the declared GP of 2.99%, the differential 3.01% i.e. ₹1,20,56,748/- was added for AY 2019-20.

- The Assessee had filed audited books — audited under the Companies Act, 2013, Section 44AB of the IT Act, the Cost Audit framework and the VAT/GST laws, with no adverse observation — and produced, supplier-wise, the ledgers, tax invoices, e-way bills, lorry receipts, weighment slips, photographs of the delivery vehicle, GST registration, GSTR-1 and GSTR-3B returns, trade licence and professional tax registration.

- Notices under Section 133(6) were served on and complied with by every supplier, directly confirming the transactions. All payments were routed through banking channels and the input tax credit (**"ITC"**) stood allowed to the Assessee by the GST authorities.

- The Commissioner of Income-tax (Appeals) [**"CIT(A)"**], following jurisdictional ITAT precedent, restricted the addition to Net Profit @ 2% of the alleged bogus purchases and confirmed ₹62,48,680/- (deleting ₹58,08,068/-). Aggrieved, the Assessee carried the matter to the Tribunal (for AY 2019-20 and AY 2020-21), while the Revenue's cross-appeal for AY 2018-19 challenged deletion of an addition of ₹9,49,08,558/- under Section 69C.

Contentions:

- **Assessee:** The transactions were fully documented and independently confirmed by the suppliers under Section 133(6); the sales to Exide Industries Ltd. were accepted; the GP/NP profile was consistent with its own track record; the ITC was allowed under GST; and the addition rested solely on a search statement and suspicion without any defect being found in the books.

- **Revenue:** The Assessee had, during search, admitted to obtaining accommodation/bogus bills from parties other than those from whom genuine purchases were made; the books were therefore unreliable and a GP-based estimation of the suppressed profit was warranted.

Issue:

Whether an addition on account of alleged bogus purchases can be sustained where the purchases are backed by comprehensive documentary evidence, direct third-party confirmations under Section 133(6), ITC allowed under GST, banking-channel payments and a yield reconciliation, and where the corresponding sales stand accepted — merely on the basis of a statement recorded during search and estimation?

Held:

The ITAT, Kolkata Bench in ***ITA Nos. 1469 & 1470/KOL/2025*** held as under:

- **Observed that,** the Assessee is undisputedly a manufacturer and supplier of lead items to Exide Industries Ltd., maintaining regular audited books of account (Companies Act, 2013; Section 44AB; Cost Audit framework; VAT/GST laws) with no adverse observation in any audit report, and its financial statements were prepared in compliance with the notified Accounting Standards with no change in the method of accounting.

- **Noted that,** notices under Section 133(6) were duly served on and complied with by every supplier, who directly confirmed the transactions; each supplier held a valid PAN, GST registration, trade licence and professional tax certificate, and had filed GSTR-1 and GSTR-3B returns which stood accepted by the GST authorities with the corresponding ITC duly allowed to the Assessee; all payments were routed through banking channels; and the yield reconciliation showed the actual production to be marginally higher than the standard yield, demonstrating that the raw material so purchased had actually been consumed in manufacture.

- **Held that,** the impugned purchases were supported by audited books, third-party confirmations obtained directly under Section 133(6), exhaustive primary documentation, a yield reconciliation and a GP/NP profile consistent with the Assessee's own history, and the AO had not pointed out any discrepancy or defect in the books of account. The addition, resting only on suspicion, estimation and a statement recorded during search, had no substantive basis and could not be sustained; an addition cannot be made merely on the ground of suspicion once the purchases have gone into finished goods that were sold and whose sales are accepted.

- **Directed that,** the AO delete the entire addition for AY 2019-20; the identical view was applied, mutatis mutandis, to AY 2020-21. Consequently, the Assessee's appeals were allowed and, the reassessment for AY 2018-19 having already been quashed by the co-ordinate Bench, the Revenue's appeal was dismissed as infructuous.

Our Comments:

This is a welcome ruling that reinforces a settled principle cutting across both the direct and indirect tax codes — **once the Department accepts a taxpayer's sales/outward supplies, it cannot in the same breath treat the corresponding purchases (and the credit thereon) as bogus.** The addition here was made under Section 69C of the IT Act after rejecting the books under Section 145(3), purely on an estimated GP/NP basis and a search statement. The Tribunal rightly held that where the AO exercises the power under Section 133(6) and every supplier independently confirms the transaction, and where no defect is found in audited books, an estimation cannot substitute for evidence.

The GST dimension is the sharpest takeaway. The very suppliers alleged to be "non-existent" held live GST registrations, filed GSTR-1 and GSTR-3B, and the ITC on the purchases was allowed to the Assessee. Under Section 16(2) of the CGST Act, 2017, ITC is available where the recipient holds a valid tax invoice, has received the goods, the tax has been paid to the Government, and the supplier has furnished its return; the burden under Section 155 rests on the person claiming credit. When the GST authorities themselves accept the supplier's returns and permit the credit, the transaction stands validated in the indirect-tax stream — a fact that materially weakens any parallel "bogus purchase" theory in the income-tax stream. In substance, where the Department disputes the purchase and its ITC while leaving the sales/output undisturbed, the demand cannot stand against a genuine taxpayer who has paid the supplier through banking channels and is not shown to be in connivance with any non-existent supplier.

Pari materia — supporting view:

- The Hon'ble Supreme Court in ***Assistant Commissioner of State Tax, Ballygunge Charge v. Suncraft Energy Pvt. Ltd. [SLP (C) Nos. 27827-27828 of 2023 dated December 14, 2023]*** dismissed the Department's SLP and affirmed the Hon'ble Calcutta High Court in ***Suncraft Energy Pvt. Ltd. v. Assistant Commissioner, State Tax [MAT 1218 of 2023 dated August 02, 2023],*** holding that ITC cannot be reversed from the recipient on account of GSTR-2A/3B mismatch or the supplier's default without first enquiring into and proceeding against the supplier.

- The Hon'ble Madras High Court in ***M/s. D.Y. Beathel Enterprises v. State Tax Officer [W.P.(MD) Nos. 2127 of 2021 & Ors. dated February 24, 2021]*** quashed the recovery of ITC from the buyer for the seller's non-remittance of tax, holding that the seller must be examined and recovery initiated against him before the buyer — who paid through banking channels including the tax — is fastened with the liability.

- On the direct-tax side, the Hon'ble Bombay High Court in ***PCIT v. Mohommad Haji Adam & Co. [ITA No. 1004 of 2016 dated February 11, 2019]*** held that even if purchases are treated as bogus, the entire purchase amount cannot be added where the sales are not disputed; at most the addition is restricted to the GP/profit element embedded in such purchases.

Contrary note — a word of caution:

- The relief is fact-driven and turns on the strength of the evidence. Where the taxpayer fails to discharge the initial onus and produces no credible documentation, additions have been upheld — see the Hon'ble Bombay High Court in ***Kanak Impex (India) Ltd. [(2025)***

> ***474 ITR 175 (Bom.)]* and the classic *N.K. Proteins Ltd. v. DCIT* (SLP dismissed by the Hon'ble Supreme Court – [*No.- Special Leave to Appeal (C) CC No(s). 769/2017, SLP(C) ...CC NO. 963/2017*],** where the entire bogus purchases were added on wholly distinguishable facts. Robust, contemporaneous documentation, direct supplier confirmations, a banking trail, GST compliance and accepted sales remain the decisive factors — all of which were present here.

Takeaway: a reopening/addition premised on "bogus purchases" must be substantiated with tangible, case-specific material and the AO's own recorded satisfaction; it cannot rest on borrowed or vague investigation-wing/GST-wing information alone. Once the purchases are corroborated and the sales stand accepted — and where the GST department has itself allowed the ITC and taken no adverse action — the purchases and their credit cannot be doubted.

CLICK HERE FOR OFFICIAL JUDGMENT COPY

(Author can be reached at info@a2ztaxcorp.com)