



RECENT DEVELOPMENTS IN TAXATION OF TRANSACTIONS OF BOGUS/UNVERIFIED SALES

*O/o CIT(Judicial), Ahmedabad
Pr. Chief Commissioner of Income Tax, Gujarat*



BOGUS SALES

Two types:

(a) Only bill providers/bogus sales and no actual sale/purchase.

(b) Parties bogus but sales not bogus.



- **Consequences under Direct Taxes:**

- **Addition of the profit embedded in such transactions.**
- **Addition u/s. 68**

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- **Prima facie onus to prove genuineness is on the Assessee**

- **Evidences:**

- a) Direct Evidences**

- *Delivery Challans, Gate Pass*
- *Transport / Lorry Receipt*
- *Sales Invoices, Stock Register, Receipt details*
- *Excise Register*
- *Weight Note, Lab Report*



b) Indirect Evidence:

- *Comparison of GP/NP Rate*
- *Comparable cases*
- *Input / Output norms*
- *Valuation Reports / Architect's Certificate in the case of Builder-Developers*

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- **Where sales are supported by evidence but sales-parties not responding**

In support of genuineness, quantitative details, Excise records, receipt particulars by cheques etc. produced, then no addition.

- *Devas Soya Limited ITA no. 336/Ind/2012 dated 31/10/2012 (ITAT-Indore)*

- Where purchases found to be genuine and sales are unaccounted.

Only profit embedded in such sales could be taxed.

– *Man Mohan Sadani [2010] 188 TAXMAN 277 (MP)*

- **When source of cash deposits is stated to be sales but names of sales parties are not disclosed & no credible evidence furnished by assessee.**

In such cases, entire amount of such unverified sales to be added u/s 68.

- *J.M.J. Essential Oil Company [2018] 100 taxmann.com 181 (Himachal Pradesh)*
- *Zaveri Diamonds [2012] 20 taxmann.com 462 (Punj. & Har.)*

Applicability of Benami Prohibition Act/PMLA

- Whether bogus transactions and sham transactions would come within the ambit of Benami transaction?
- Where the source of proceeds/consideration in relation to alleged bogus transaction are not explained and additions made, can the provisions of PMLA be applied?
 - *Rajmandir Estates Private Ltd. Vs. Pr. CIT 70 taxmann.com 124 (Cal.)*
 - *SLP dismissed – 77 taxmann.com 285 (SC)*
 - *Rohit Tandon Vs. Enforcement Directorate 145 SCL 1 (SC)*



THANK YOU