

IN THE HIGH COURT OF DELHI AT NEW DELHI

17.09.2009

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Present: Mr. Subhash Bansal, Adv. for the appellant.

ITA No.913/2009 COMMISSIONER OF INCOME TAX **vs.** SURYA VINAYAK INDS.
LTD

The Assessing Officer had invoked the provision of Section 40A(3) of the Income Tax Act and thereby made addition of Rs.45,35,392/- in the income of the assessee for the Assessment Year 2004-05. The main reason, as per the Assessing Officer, was that the assessee had purchased material from one M/s. Sonali Enterprises. The AO doubted the said purchase and was of the opinion that the said M/s. Sonali Enterprises used to provide accommodation entries. However, the Income Tax Appellate Tribunal reversed the aforesaid addition observing that the assessee had filed evidence by way of purchase bills, transport bill, form ST-38 issued by Excise and Trade Officer, copy of stock ledger of the company showing receipts of material, production records showing production of goods and charge of excise and sales tax thereon along with copy of bank accounts. The bills raised by M/s. Sonali Enterprises were also filed. It was also found, as a matter of fact, that all payments had been made through banking channels. On the aforesaid facts, the ITAT has rightly held that the provisions of Section 40A(3) were not even attracted, as there were no cash transactions. We, therefore, do not find any substantial question of law, which arises for our consideration in the present case. This appeal is accordingly dismissed.

A.K. SIKRI, J.

VALMIKI J. MEHTA, J.
September 17, 2009
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