

# Case Law

## ACIT vs. Mahesh K. Shah (ITAT Mumbai)

s.69C Bogus Purchases: Purchases cannot be treated as bogus merely on the basis of the statements and affidavits filed by the alleged vendors before the sales-tax department. The said statements cannot be relied upon without cross-examination of the parties. The fact that the parties did not respond to the s. 133(6) notices is not relevant if the assessee filed copies of purchase invoices, extracts of stock ledger showing entry/exit of materials, copies of bank statements to evidence that payments for these purchases were made through normal banking channels, etc to establish genuineness of the aforesaid purchases

Mere reliance by the AO on information obtained from the Sales Department or on statements/affidavits of the 12 parties before the Sales Tax Department or that these parties did not respond to notices issued under section 133(6) of the Act, would not in itself suffice to treat the purchases as bogus and make the addition under section 69C of the Act. If the AO doubted the genuineness of the said purchases, it was incumbent upon him to cause further inquiries in the matter in order to ascertain the genuineness or otherwise of these transactions. Without causing any further enquiries to be made in respect of the said purchases, the AO cannot make the addition under section 69C of the Act by merely relying on information obtained from the Sales Tax Department, the statements/ affidavits of third parties, without the assessee being afforded any opportunity of cross examination of those persons for non-response to information called for under section 133(6) of the Act