

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC", BENCH MUMBAI
BEFORE SHRI R.C.SHARMA, AM
ITA No.2791/Mum/2017
CO 146/Mum/2017
(Arising out of ITA No.2791/Mum/2017)
(Assessment Year :2010-11)

DCIT CEN CIR 2(3) R.No.804, 8 th Floor, Old CGO Building M.K. Road, Mumbai – 400 020	Vs.	M/s. Hellios Tubealloys Pvt. Ltd., Formerly known as M/s. SLS Tubes Pvt. Ltd.,)SLS House,43 1 st Carpenter Street, CP Tank, Mumbai – 400 004
PAN/GIR No.		AALCS1837M
Appellant)	..	Respondent)

Revenue by	Shri Ram Tiwari
Revenue by	Shri Ravikant Pathak
Date of Hearing	27/09/2017
Date of Pronouncement	09/10/2017

आदेश / O R D E R

PER R.C.SHARMA (A.M):

This is an appeal filed by revenue and cross objection filed by assessee against the order of CIT(A)-52, Mumbai dated 01/02/2017 for the A.Y.2010-11 in the matter of order passed u/s.143(3) of the IT Act.

2. In this appeal, revenue is aggrieved for upholding addition of 12.5% on the bogus purchases which was made by the AO at 100% of the bogus purchase.

3. Rival contentions have been heard and record perused. Briefly stated, the facts of the case are that the assessee company is engaged in the business of dealing and manufacturing of Ferrous & Non-Ferrous metals

and its allied products. The assessee filed return of income for the year under consideration on 22/09/2010, declaring total income at Rs. NIL. The case was selected for scrutiny and a notice u/s. 143(2) was issued and was duly served upon the assessee. It is gathered that the AO, in this case, received an information for the Maharashtra Sales Tax Department that the assessee company had carried out purchases from bogus hawala dealers viz. M/s. Ananddeep Metal and M/s. Tyson Steel and Tube P. Ltd. to the tune of Rs. 59,82,246/-. Therefore, during the course of assessment proceedings, the AO asked the assessee to explain the genuineness of the above purchase transactions. It appears that the assessee furnished certain details before the AO but did not furnish complete details. Further the query letters issued by the AO to these parties u/s. 133(6) were returned back by the postal authorities and therefore, the AO concluded that these parties were non-genuine and thereafter he rejected the books of accounts of the assessee u/s. 145(3) of the Act and went on to add the entire amount of purchases of Rs. 59,82,246/- in the hands of the assessee, eventhough, in the body of the assessment order in para 4.1.6 the AO mentioned that G.P. of the firm is being estimated at 11.12%. However, he did not mention as to whether he is applying G.P. rate on entire sales turnover or only on suspected purchases. But, finally he added only the entire amount of suspected bogus purchases of Rs. 59,82,246/-. Thus, the assessment was

completed on an income of Rs. 10,85,310/- vide order dated 26/03/2013.

The present appeal has been filed against this order of the AO.

4. By the impugned order CIT(A) held that purchases were not bogus and the suppliers were registered dealer, therefore, assessee might have saved VAT and other taxes on such purchases. Accordingly, he estimated profit of 12.5% on such bogus purchases which resulted into upholding addition of Rs.7,47,781/-.

5. Revenue is in further appeal before us and assessee has filed Cross Objection objecting for sustaining addition by CIT(A) at 12.5%.

6. I have considered rival contentions and carefully gone through the orders of the authorities below. Assessee is engaged in manufacturing and trading of ferrous and non-ferrous metals. During the course of scrutiny assessment, AO made addition in respect of purchases alleged to be made from bogus suppliers as per information from Maharashtra Sales Tax Department. Accordingly, he added entire amount of purchases in assessee's income. The CIT(A) upheld the addition of 12.5% by observing that purchases were not bogus, however, assessee might have shown lower income by taking bill from unregistered dealers. The CIT(A) observed that the assessee has furnished voluminous details in support of its claim towards purchases from these two parties which includes the copies of bills / invoices, delivery challans, ledger accounts, stock register cum details, quantitywise details, copy of bank statement showing payments through cheques, confirmation from these parties regarding

purchases etc., Keeping in view profit rate declared by the assessee at 13% vis-à-vis judicial pronouncements cited by learned AR during the course of hearing before me, I modify the order of the lower authorities and direct the AO to restrict addition to the extent of 10% of alleged bogus purchases.

7. In the result appeal of the revenue is dismissed whereas Cross Objection of assessee is allowed in part.

Order pronounced in the open court on this 09/10/2017

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 09/10/2017

Karuna Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)
ITAT, Mumbai