

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri B.R. Baskaran (AM)

I.T.A. No. 4429/Mum/2017 (Assessment Year 2007-08)

Associate Plantations Pvt. Ltd. 85-A, Associate House Sant Savta Marg Mustafa Bazar Mumbai-400 010. PAN : AAACA55501B.	Vs.	ACIT CC-8(2) Room No. 575 Aayakar Bhavan M.K. Road Mumbai-400020.
(Appellant)		(Respondent)

Assessee by	Shri K. Gopal & Ms. Neha Paranjpe
Department by	Ms. N. Hemlatha
Date of Hearing	18.10.2017
Date of Pronouncement	18.10.2017

ORDER

The appeal filed by the assessee is directed against the order dated 29.3.2017 passed by the learned CIT(A)-50, Mumbai and it relates to A.Y. 2007-08. The assessee is aggrieved by the decision of the learned CIT(A) in enhancing the addition of bogus purchases to 100%.

2. I heard the parties and perused the record. The assessee is engaged in the business of trading in steel. The Revenue carried out survey operation u/s. 133A of the Act and it was noticed that the assessee has made bogus purchases from Siddhivinayak Steel to the tune of ₹ 109.60 lakhs. During the course of assessment proceedings, the assessee contended that the purchases made from Siddhivinayak Steel are genuine. In support of the same the assessee furnished copies of the purchase bills, ledger account of supplier, details of payments made to the supplier. The Assessing Officer did not agree with the contentions of the assessee and accordingly he estimated profit on alleged bogus purchases at 12.5% and added the same to the total income of the assessee.

3. Before the learned CIT(A), the assessee furnished copy of tax audit report wherein, details of quantity were given. However, the assessee could not produce stock register before the learned CIT(A). The learned CIT(A) also noticed that the assessee has furnished copy of only two purchase invoices. The learned CIT(A) noticed that the quantity details given in tax audit report did not contain details relating to "MS pipe", which item was purchased from M/s. Siddhivinayak Steel. Even though the assessee submitted that the details relating to MS pipe have been included under the heading "Seamless Pipes", the learned CIT(A) did not accept the same. Accordingly, the learned CIT(A) took the view that the profit of 12.5% estimated by the Assessing Officer is not correct and accordingly took the view that entire purchase of ₹ 109.60 lakhs should be disallowed. Accordingly, he enhanced income of the assessee by disallowing entire amount of purchase made from Siddhivinayak Steel. Aggrieved by the order passed by the learned CIT(A) the assessee has filed this appeal before the Tribunal.

4. I heard the parties and perused the record. The Ld A.R submitted that the assessee has reconciled the purchases and sales and hence the AO had estimated the profit from the alleged bogus purchases at 12.50%. He submitted that the assessee had given sample of purchase invoices and the Ld CIT(A) has presumed that the assessee could not furnish copies of other invoices. He submitted that the Tax audit report contains quantity details, which has been collated from stock register. Hence non-production of stock register should not have been considered by Ld CIT(A) as an issue to take adverse decision. On the contrary, the Ld D.R supported the order passed by Ld CIT(A).

5. Having heard rival submissions, I am of the view that there is merit in the contentions of Ld A.R. Since the quantity details have been reconciled and since it has also been certified by the tax auditor, in my view, there is no necessity to disallow entire amount of alleged bogus purchases. I notice that the AO had estimated the profit element embedded in the bogus purchases at

12.50% and in my view, it appears to be reasonable. Accordingly I set aside the order passed by Ld CIT(A) on this issue and direct the AO to sustain addition to the extent of 12.50% of the value of purchases.

6. In the result, the appeal of the assessee is partly allowed.

Order has been pronounced in the Court on 18.10.2017.

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 18/10/2017

Copy of the Order forwarded to :

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

//True Copy//

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BY ORDER,
(Asstt. Registrar/Senior PS)
ITAT, Mumbai