



ITA.No.5517/Mum/2016
Shreyans Metal (India)
Assessment Year-2009-10

आयकर अपीलीय अधिकरण "बी" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI

श्री डी.टी. गरसिया, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE SHRI D.T. GARASIA, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./I.T.A. No.5517/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2009-10)

Shreyans Metal (India) Shop No.1, Ground Floor Mali Bhuvan 8 th Khetwadi Lane Mumbai-400 004	बनाम/ Vs.	Income Tax Officer Range 19(3)(3) Matru Mandir, 2 nd Floor Tardeo Road Mumbai- 400 007
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AANFS-1907-R		
(□ पीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Nitesh Joshi ,Ld.AR
Revenue by	:	V. Jenardhanan, Ld. Sr.DR

सुनवाई की तारीख / Date of Hearing	:	25/10/2017
घोषणा की तारीख / Date of Pronouncement	:	01/11 /2017

आदेश / O R D E R

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by assessee for Assessment Year [AY] 2009-10 assails the order of the Ld. Commissioner of Income-Tax (Appeals)-30 [CIT(A)], Mumbai, *Appeal No. CIT(A)-30/19(3)(3)/243/2015-16* dated 16/08/2016. The assessment for impugned AY was framed by *Ld. Income Tax Officer Range 19(3)(3)*,



Mumbai [AO] u/s 143(3) read with Section 147 of the Income Tax Act,1961 on 13/03/2015. The solitary issue involved in the appeal is addition on account of certain *bogus purchases*.

2.1 Facts leading to the same are that the assessee being *resident firm* engaged in the business of *stainless steel raw material* was subjected to an assessment u/s 143(3) *read with Section 147* for impugned AY on 13/03/2015 at Rs.60,24,160/- after addition of certain *bogus purchases* for Rs.52,84,346/-. The original return was *filed* on 23/09/2009 at Rs.7,39,811/- which was processed u/s 143(1). As already stated, the solitary issue involved in the appeal is addition against *bogus purchases*.

2.2 The reassessment proceedings were initiated upon receipt of certain information from *Sales Tax Department, Maharashtra* regarding dealers indulging in *bogus purchase bills* and it was noted that the assessee stood beneficiary of such *bogus purchase bills* to the tune of Rs.2,11,37,383/- from fifteen such entities. Consequently, notice u/s 148 dated 10/02/2014 was issued to the assessee which was followed by statutory notices u/s 143(2) and 142(1).

2.3 To confirm the impugned transactions, notices u/s 133(6) was issued to the suppliers at the addresses provided by the assessee. However, the same could not be served and returned back *un-served* with remarks like *left, not known etc.* The assessee, in turn, furnished sale/purchase invoices, stock register, bank statement etc. However, Ld. AO finding discrepancies in the same, treated the purchases as non-genuine and placing reliance on several judicial pronouncement, estimated addition @ 25% against the *alleged bogus purchases* which came to Rs.52,84,346/-.



3. Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 16/08/2016 where the Ld. CIT(A), after considering various contentions & submissions, restricted the impugned additions to 12.5%. Aggrieved, the assessee is in further appeal before us.

4. The Ld. counsel for Assessee [AR] opposed the estimated additions on the ground that confirmation with respect to few parties was available on the record and Gross profit rates in the impugned AY was in line with earlier years and further quantitative details were available on record. Per *Contra*, Ld. DR contended that adequate relief has already been granted by Ld. CIT(A) and the same was quite fair and reasonable.

5. We have carefully heard the rival contentions and perused relevant material on record. We are of the considered opinion that there could be no sale without purchase /consumption of material since the assessee was engaged in *trading activities*. The sales turnover achieved by the assessee has not been disputed / disturbed by the revenue and the payments were through banking channels. The purchases were backed by invoices. At the same time, the assessee could not produce any confirmation from the any of the fifteen suppliers and all notices issued u/s 133(6) were returned back, which cast serious doubt on assessee's claim. Therefore, in such a situation, the addition, which could be made, was to account for profit element embedded in these purchase transactions to factorize for profit element earned by assessee against possible purchase of material in the *grey market* and undue benefit of VAT against such bogus purchases, which Ld. CIT(A) has rightly done. The Ld. AR has contended that the assessee made VAT payment with



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respect to five parties. The assessee deserves the benefit of the same. Hence, on overall facts and circumstances and keeping in view assessee's nature of business, we reduce the estimated addition to 10% of *alleged bogus purchases* of Rs.2,11,37,383/- which comes to Rs.21,13,738/-. The order of Ld. CIT(A) stands modified to that extent.

6. Resultantly, the assessee's appeal stands partly allowed.

Order pronounced in the open court on 01st November, 2017.

Sd/-
(D.T. Garasia)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 01.11 .2017
Sr.PS:- *Thirumalesh*

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai