

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RANCHI BENCH, RANCHI  
[Before Shri J.Sudhakar Reddy, Accountant Member and  
Shri S.S.Viswanethra Ravi, Judicial Member]**

**I.T.A. No. 171/Ran/2014  
Assessment Year: 2010-11**

**Santipuria Alloys Pvt. Ltd.....Appellant**  
**Manjhladih,**  
**Girdih – 815 301.**  
**[PAN : AAICS 4215 J**

**ACIT/Assessing Officer.....Respondent**  
**Central Circle,**  
**Dhanbad.**

**I.T.A. No. 252/Ran/2014  
Assessment Year: 2010-11**

**ACIT/Assessing Officer.....Appellant**  
**Central Circle,**  
**Dhanbad.**

**Santipuria Alloys Pvt. Ltd.....Respondent**  
**Manjhladih,**  
**Girdih – 815 301.**  
**[PAN : AAICS 4215 J]**

**C.O. No. 18/Ran/2014  
(Arising out of ITA No. 252/Ran/2014)  
Assessment Year: 2010-11**

**Santipuria Alloys Pvt. Ltd.....Appellant**  
**Manjhladih,**  
**Girdih – 815 301.**  
**[PAN : AAICS 4215 J**

**ACIT/Assessing Officer.....Respondent**  
**Central Circle,**  
**Dhanbad.**

**Appearances by:**

*Shri K.N. Prasad, Advocate appearing on behalf of the Assessee.*

*Shri P.K. Monday appearing on behalf of the Revenue.*

Date of concluding the hearing : February 21, 2018

Date of pronouncing the order : February 28, 2018

**ORDER**

**Per Bench**

The above said two appeals by the assessee and revenue respectively for assessment years 2010-11 against the order dated

04.03.2014 passed by the CIT(A) and the same are being disposed of along with the cross-objection filed by the assessee being C.O. No. 18/Ran/2014.

2. First we shall take up the appeal being ITA No. 171/Ran/2014 filed by the assessee.

3. Ground no 1 is relating to sustaining the addition of Rs. 47,94,499/- made on account of undisclosed stock. The A.O. basing on the impounded documents that were found during the survey under 133A of the Act prepared a comparative analysis of stock of different items along with their respective values found physically and the position of stock recorded in the books of accounts and found value of excess stock to the extent of Rs. 47,94,499/-. For non explanation and non reconciliation of the excess stock and basing on certificate of valuation of physical stock issued by BCCL, without considering the objection by the assessee, determined the value of undisclosed stock at Rs. 47,94,499/- and added to the total income of the assessee. The Id. CIT(A) confirmed the said addition.

4. Before us, the learned AR submits during the survey no incriminating material was found. The assessee maintains its stock by weight. The A.O. without considering the objections of assessee and following the valuation done by the BCCL, estimated the value of stock which is bad in law. The learned AR, further submits that nowhere in the Income Tax Act, it has been provided that for taking inventory of any cash, stock or other valuable articles verification is to be done by any authority other than the Income Tax Department. In

spite of assessee's objection, the A.O. estimated the value basing on the third party valuation which was wrongly confirmed by the CIT(A). The learned AR submits that the issue is covered by the order of this Tribunal in the case of M/s. Saluja Steel & Power Pvt. Ltd. A.Y. 2010-11 and referred to para no 8 of the said order. This was placed on record at page no 18 of the Paper Book.

5. The learned DR submits that the assessee failed to reconcile the value of stocks on the day of survey as verified by BCCL with that of stock register. The learned A.O. specifically asked the assessee to give explanation with regard to the excess stock and that the assessee failed to give proper explanation before CIT(A) and A.O. The learned DR prayed to dismiss ground no 2 raised by the assessee.

6. Heard rival submissions and perused the material available on record. We find that under identical facts, the Co-ordinate Bench of ITAT, Ranchi remanded the issue to the file of the A.O. to conduct and consider the issue de novo in terms of the decision of Hon'ble Supreme Court in the case of Sahara India reported in 300 ITR 403 (SC). The relevant portion of which is reproduced herein below:

*"We find that the assessee has also reiterated its objection before the learned CIT(Appeals) but the learned CIT(Appeals) has not commented on this aspect. Upon careful consideration, in our considered opinion, it was incumbent upon the authorities below to give proper reasons as to why they are rejecting the preliminary objection of the assessee for the reliance on report of the survey officers of BCCL regarding the discrepancy found during survey conducted u/s 133A of the I.T. Act. Hon'ble Apex Court in the case of Sahara India P. Ltd. Vs CIT 300 ITR 403 (SC) has held that even administrative orders have to be consistent with rules of natural justice. Accordingly we remit the issue to the file of the A.O. The A.O. is directed to consider the issue de novo and pass a speaking order after considering all the aspects raised by the assessee."*

7. In view of the same, we deem it proper to remand the issue to the file of the A.O. for his consideration afresh in terms of the objections raised by the assessee in respect of the valuation certification issued by the BCCL authority. Ground No. 2 is therefore allowed for statistical purposes.

8. Ground No. 3 is relating to confirmation of addition of Rs. 86,65,069/- on account of profit on undisclosed sale. The learned AR submits that since the issue raised in ground no 2 is connected with ground no 3 and in view of the decision of Co-ordinate Bench of ITAT Ranchi in ground no 2 afore-mentioned, prayed to remand the case to the file of the A.O. for his fresh consideration. The learned DR did not object the same.

9. Heard the rival submissions and perused the material available on record. We find that the issue raised in this ground is connected to ground no 2 above. Since we have taken a view to remand the issue raised in ground no 2 to the file of A.O. and by following the same, we deem it proper to remand the issue in ground no 3 to the file of A.O. by taking into consideration submissions of both the parties before us. Therefore, ground no 3 of the assessee is allowed for statistical purposes.

10. Now, we shall take up the appeal in ITA No. 252/Ran/2014 filed by the revenue. Ground raised by the revenue is read as under:

*"1. That the Ld. CIT(A), Dhanbad, has grossly erred in allowing telescoping of excess stock against undisclosed profit which were two independent set of events having no nexus whatsoever.*

*2. Any other ground that may be raised during the course of hearing"*

11. It is noticed that the revenue has raised ground challenging the action of CIT(A) in allowing telescoping of excess stock against the undisclosed profit. Since we have decided to remand both the issues raised in assessee's appeal above for the consideration of A.O. afresh and ground raised by the revenue in the above appeal does not survive. Therefore, ground no 1 raised by the revenue is dismissed as infructuous.

12. C.O. No. 18/Ran/2014: The ground raised in the cross-objection is arising out of appeal filed by the revenue. Since we dismiss the same as infructuous in the afore-mentioned paragraph, the ground raised in cross-objection filed has become infructuous and C.O. filed by the assessee is dismissed as infructuous.

**13. In the result, appeal filed by the assessee is allowed for statistical purposes while the appeal filed by the revenue and cross-objection filed by the assessee are dismissed as infructuous.**

Order Pronounced in the Open Court on 28<sup>th</sup> February, 2018.

Sd/-

(J. Sudhakar Reddy)  
ACCOUNTANT MEMBER

Sd/-

(S.S.Viswanethra Ravi)  
JUDICIAL MEMBER

**Dated: 28/02/2018**

Biswajit, Sr. PS

Copy of order forwarded to:

1. Santpuria Alloys Pvt. Ltd., Manjhladih, Giridih – 815 301.
2. ACIT/Assessing Officer, Central Circle, Dhanbad.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.  
ITAT, Ranchi