

आयकर अपीलीय अधिकरण पुणे न्यायपीठ "ए" पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री अनिल चतुर्वेदी, लेखा सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM AND SHRI ANIL CHATURVEDI, AM

आयकर अपील सं. / ITA No.326/PUN/2018
निर्धारण वर्ष / Assessment Year : 2009-10

Ellora Ispat
Plot No.W-210,
MIDC, Bhosari,
Pune – 411022 अपीलार्थी/Appellant

PAN: AAAFE3629F

Vs.

The Income Tax Officer,
Ward 6(4), Pune प्रत्यर्थी / Respondent

SA No.37/PUN/2018
Arising out of ITA No.326/PUN/2018
Assessment Year : 2009-10

Ellora Ispat
Plot No.W-210,
MIDC, Bhosari,
Pune – 411022 Applicant

PAN: AAAFE3629F

Vs.

The Income Tax Officer,
Ward 6(4), Pune Respondent

Assessee by : Shri S.D. Pathak
Revenue by : Shri Ajay Modi

सुनवाई की तारीख / Date of Hearing : 04.04.2018	घोषणा की तारीख / Date of Pronouncement: 12.04.2018
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आदेश / ORDER**PER SUSHMA CHOWLA, JM:**

The appeal filed by assessee is against order of CIT(A)-8, Pune, dated 27.07.2017 relating to assessment year 2009-10 against order passed under section 144 r.w.s. 147 of the Income-tax Act, 1961 (in short 'the Act'). The assessee also filed captioned Stay Application.

2. The appeal filed by the assessee and Stay Application were heard together and are being disposed of by this consolidated order for the sake of convenience.

3. The assessee has raised the following ground of appeal:-

1. *The Raw Material purchased from Rashmi Enterprises amounting to Rs.31,45,803/- has been consumed for production of M.S. Profile.*
2. *The alleged Allegation by learned A.O. and F.A. are wrong as they have treated the Appellant as Trader.*
3. *The Appellant crave leave to produce additional documents before Honourable ITAT.*
4. *The Appellant request to delete the additions made by A.O. and confirmed by F.A.*
5. *The Appellant has neither concealed nor shown wrong purchases, hence penalty levied u/s. 271(1)(c) to be deleted.*

4. The assessee is aggrieved by the order of CIT(A) in not considering evidence available with the assessee and passing the order. The issue raised in the present appeal is against alleged bogus purchases made by the assessee.

5. The perusal of assessment order reveals that the same was passed *ex parte* under section 144 r.w.s. 147 of the Act. The assessee claims to have

filed evidence before the CIT(A) to establish the trail of goods, which he failed to consider and upheld the order of Assessing Officer in assessing 100% value of purchases as additional income of assessee.

6. We find merit in the plea of assessee that reasonable opportunity of hearing has not been granted to assessee. The learned Authorized Representative for the assessee pointed out that the issue in the present appeal stands covered. Since documentary evidences available with the assessee in respect of goods purchased and its trail has not been considered by the authorities below, we deem it fit to restore the issue back to the file of Assessing Officer. The assessee is directed to file evidences before the Assessing Officer to establish its claim. The Assessing Officer is directed to allow reasonable opportunity of hearing to the assessee and decide the issue in accordance with law.

7. The matter is being set aside to the file of Assessing Officer, hence the issue on merits is not being decided. However, the Stay Application moved by the assessee stands dismissed.

8. In the result, appeal of assessee is allowed for statistical purposes and the Stay Application is dismissed.

Order pronounced on this 12th day of April, 2018.

Sd/-
(ANIL CHATURVEDI)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(SUSHMA CHOWLA)

न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक Dated : 12th April, 2018.

GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-8, Pune;
4. The Pr.CIT-3, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "ए" / DR 'A', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune