

**IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH “H”,MUMBAI  
BEFORE SHRI R.C.SHARMA, ACCOUNTANT MEMBER AND  
SHRI PAWAN SINGH, JUDICIAL MEMBER**

**ITA No.7707/Mum/2014**

**(Assessment Year : 2007-08)**

M/s Pride Steels Pvt. Ltd. Flat No. 109, Ashirwad Building, Ahemdabad Street, Masjid(E), Mumbai-400009.  <b>PAN: AAACP2140B</b>	Vs.	ACIT-25(2), R. No. 108, 1 <sup>st</sup> Floor, Pratyakskar Bhavan, BKC, Mumbai-400012.
(Appellant)		(Respondent)

**ITA No.7711/Mum/2014**

**(Assessment Year : 2011-12)**

M/s Pride Steels Pvt. Ltd. Flat No. 109, Ashirwad Building, Ahemdabad Street, Masjid(E), Mumbai-400009.  <b>PAN: AAACP2140B</b>	Vs.	ACIT-25(2), R. No. 108, 1 <sup>st</sup> Floor, Pratyakskar Bhavan, BKC, Mumbai-400051.
(Appellant)		(Respondent)

Assessee by : None

Revenue by : Shri Rahul Raman (CIT-DR)

Date of hearing : 17.10.2016

Date of Pronouncement : 19.10.2016

**ORDER**

**PER PAWAN SINGH, JM:**

1. These two appeal u/s 253 of the Income-tax Act are directed by the assessee against the order of CIT(A)-37, Mumbai dated 16.10.2014 for Assessment Year (AY) 2007-08 & 2011-12 respectively. As both the appeals are based

on common grounds of appeal, hence, both the appeal were clubbed, heard and are being decided by common order. First we shall take up the ITA No. 7707/Mum/2014 for AY -2007-08.

2. A search and seizure action u/s 132(1) of the Act was conducted in case of Rustomjee–Evershine Group on 20.10.2010 wherein certain papers/evidence in the name of assessee was found. A notice u/s 133A r.w.s 153C was issued to the assessee. Assessee filed return of income in response to the said notice on 31.03.2013 declaring the same income as per original return of income filed. While making the assessment, the AO noticed that assessee is engaged in the business of trading/supply of Iron & Steel products such as M.S. Plate, Sheet, Pipes and during the search proceeding of Rustomjee Group, it was found that assessee along with its sister concern M/s Pawan Jyoti Steels Private Ltd. issued accommodation bills. It was also observed that no vouchers were supported for the goods receipts, delivery challan, weigh bridge challan or transport bill, the statement of Shri Dehimat Chokshi was also recorded in the search proceeding of Rustomjee. As per the statement of Director of Rustomjee Group, the accommodation entries in the form of sales to the tune of Rs. 1.92 Crore on which commission @ 2% was retained by assessee-company and its sister concern. On the basis of its observation of the AO, the assessee-company was asked to provide the sales and purchase details. The assessee-company failed to provide the same and the AO made the addition of Rs. 43,29,415/- holding that total sales as per audited Profit & Loss A/c there is total sales of Rs. 18.16 Crore on which Net Profit was estimated at 2.5%, thus addition of Rs. 43,29,415/- was worked out. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A) wherein the addition was sustained. Further aggrieved by the order of CIT(A) assessee filed present appeal before this Tribunal.

3. The case came up for hearing on 17.10.2016 but none has appeared on behalf of the assessee, despite service of notice through Id. Departmental Representative (DR) on the address provided by assessee in Form-36 (Appeal Form). The Id. DR for Revenue also furnished the proof of service at the given address in the form of acknowledgement. As nobody appeared despite service and waiting for sufficient time till 1 p.m. We left no option except to proceed further and to hear the Id. DR for Revenue. The Id. DR for Revenue argued that the assessee was found engaged in providing accommodation entries for supply of Iron & Steel products such as M.S. Plate, Sheet, Pipes. During the search and survey proceedings, the assessee-company along with its sister concern were found involved in providing accommodation entries in the name of bogus purchase to Rustomjee-Evershine Group. The assessee-company issued accommodation bill to M/s Rustomjee Group and a number of invoices/bills were found unsigned. During the assessment proceeding, the assessee failed to provide sales and purchase details despite giving sufficient opportunities. The AO passed a very reasoned order after giving sufficient opportunity to the assessee and nominal addition @ 2.5% on the basis of total sales as per P&L A/c was made which was sustained by Id. CIT(A). The Id. DR for the Revenue further argued that the order of authorities below are reasoned one and does not require any interference from the Tribunal.
4. We have considered the contention of Id. DR for Revenue and gone through the orders of authorities below, particularly in absence of any representation on behalf of the assessee. We have seen that before the AO, the assessee failed to substantiate the sales and purchase details despite opportunity to the assessee. The AO considered the audited books of account of assessee wherein the total sales at Rs. 18.16 Crore were recorded on which a very meager profit i.e. 2.5% was estimated. Considering the fact that assessee is engaged in practice of providing accommodation entry for evasion of

income-tax. The Id. CIT(A) after considering the submission of the assessee as no books were produced before the AO. The Id. CIT(A) considering the submission of the assessee concluded that section 145(3) speak the situation where the AO is not satisfied about the correctness of the books of accounts of the assessee. The return of assessee was based on the audited account despite that assessee was unable to substantiate its account by producing books and basic records. Ld. CIT(A) further concluded that purchases and sales of the assessee are bogus, thus, no fault can be found in the order of AO in rejecting the books of accounts of assessee and confirmed the addition. The order of authorities below are reasoned one and we do not find any infirmity or illegality in the order passed by Id. CIT(A), hence, the appeal of the assessee is rejected.

**ITA No. 7711/Mum/2014 –AY-2011-12**

5. In this appeal, the assessee raised identical grounds of appeal the facts of this AY are also identical. Hence, this appeal of assessee is also dismissed with similar observation.
6. In the result, appeals of the assessee for both the AYs are dismissed.

Order pronounced in the open court on this 19<sup>th</sup> October, 2016.

**Sd/-**

**(R.C.SHARMA)**

**ACCOUNTANT MEMBER**

Mumbai; Dated 19/10/2016

S.K.PS

**Sd/-**

**(PAWAN SINGH)**

**JUDICIAL MEMBER**

**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,

(Asstt.Registrar)  
ITAT, Mumbai