



ITA No.5028/Mum/2018
A.Y. 2009-10
M/s. Kunal Steel

आयकर अपीलीय अधिकरण “एक-सदस्य मजल” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI

मजनीय श्री महावीर सिंह, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आकरअपील सं./ I.T.A. No.5028/Mum/2018
(निर्धारण वर्ष / Assessment Year:2009-10)

ACIT-17(2) Aaykar Bhavan, Room No.123A 1st Floor, M.K. Road Mumbai-400 020.	बनाम/ Vs.	M/s. Kunal Steel 113, Kasara Street, 3rd Lane Darukhana Mumbai-400 009.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAHFK-2164-J		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Revenue by	:	Shri Ashutosh Rajhans-Ld.DR
Assessee by	:	None

सुनवाई की तारीख/ Date of Hearing	:	12/09/2019
घोषणा की तारीख / Date of Pronouncement	:	12/09/2019

आदेश / ORDER

Per Bench: -

1. Aforesaid appeal by revenue for Assessment Year [AY] 2009-10 contest the order of Ld. Commissioner of Income-Tax (Appeals)-57,



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Mumbai, [in short referred to as 'CIT(A)'], Appeal No. CIT(A)-57/Arr. 502/2018-19 dated 01/06/2018 on following grounds of appeal: -

1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in reducing the disallowance at 8% as against 12.5% adopted by the A.O. in respect of bogus accommodation entries/bogus purchases.”

None has appeared for assessee and therefore, the matter is proceeded with *ex-parte qua* the assessee.

2.1 Facts on record would reveal that the assessee being resident firm stated to be engaged in trading of steel was assessed for impugned AY u/s. 143(3) r.w.s. 147 on 30/11/2016 wherein the income of the assessee was determined at Rs.41.67 Lacs after addition of *alleged bogus purchases* for Rs.27.40 Lacs as against returned income of Rs.14.26 Lacs filed by the assessee on 15/09/2010 which was processed u/s.143(1).

2.2 Pursuant to receipt of certain information from investigation wing / Sales tax Department, Govt. of Maharashtra, it transpired that the assessee stood beneficiary of alleged bogus purchases for Rs.219.23 Lacs from an entity namely M/s Hanuman Steels. Accordingly, as per due process of law, re-assessment proceedings were initiated against the assessee u/s 147 by issuance of notice u/s 148 on 28/03/2016 followed by statutory notices u/s 143(2) & 142(1), wherein the assessee was directed to substantiate the purchase transactions.



2.3 Although the assessee defended the purchases, however, relying upon investigations carried out by the Sales Tax Department and finding that the assessee failed to prove the delivery of material, learned AO estimated the additions against stated purchases @12.5% and added the same to the income of the assessee. The learned CIT(A) restricted the additions to 8%, against which the revenue is in further appeal before us. It appears that the assessee has not appealed any further.

3. We have heard and considered the arguments made by Ld. DR.

4. We are of the considered opinion there could be no sale without actual purchase of material keeping in view the assessee's nature of business. The assessee was in possession of primary purchase documents and the payments to the supplier was through banking channels. The sales turnover reflected by the assessee has not been disturbed / disputed by Ld. AO. However, at the same time, the assessee miserably failed to substantiate the delivery of material. Under such circumstances, the additions which could be sustained, was to account for profit element embedded in these purchase transactions to factorize for profit earned by assessee against possible purchase of material in the grey market and undue benefit of VAT against such bogus purchases, which Ld. first appellate authority has rightly done considering the fact that the assessee



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was dealing in low margin item like iron & steel. Therefore, finding no infirmity in the estimation made by Ld. CIT(A), we dismiss the appeal.

5. In the result, the appeal stands dismissed.

Order pronounced in the open court on 12th September, 2019.

Sd/-

(Mahavir Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 12/09/2019

Sr.PS:-Jaisy Varghese

आदेश की प्रतिलिपि प्रेषित / 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. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

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