



ITA No.5074/Mum/2018
Automatic Engineering Works
Assessment Year 2013-14

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

माजनीय 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

आयकर अपील सं./ I.T.A. No.5074/Mum/2018
(निर्धारण वर्ष / Assessment Year:2013-14)

Automatic Engineering Works E/22-23 and F-23, Nand Dham Industrial Estate, Marol Maroshi Road Andheri(E), Mumbai-400 059.	बनाम/ Vs.	JCIT-24(1) 6 th floor, Piramal Chambers Lalbaug, Parel Mumbai-400 012.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAFA 2018 E		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Revenue by	:	Shri Akhtar H. Ansari-Ld.DR
Assessee by	:	Shri V.C. Shah-Ld. AR

सुनवाई की तारीख/ Date of Hearing	:	17/09/2019
घोषणा की तारीख / Date of Pronouncement	:	17/09/2019

आदेश / ORDER

Per Bench: -

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as AY] 2013-14 contest the order of Ld. Commissioner of Income-Tax (Appeals)-36, Mumbai, [in short referred to as CIT(A)], *Appeal No. CIT(A)-*



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36/IT-453/JCIT-24(1)/2015-16 dated 05/04/2018 on following grounds of appeal: -

On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeals) erred in sustaining the addition to total income at Rs.4,29,387/- which has been done by not considering the facts, circumstances and evidence put on record and by not considering the fact that the appellant's explanation was accepted in prior year by the Excise Department and by ignoring the typical facts about the scrap generated, quality and the same is done by comparing the incomparable circumstances of other traders not dealing in similar scrap generated and sold by your appellant.”

2. Facts on record would reveal that the assessee being resident firm stated to be engaged in manufacturing of Motor Vehicle Parts was assessed u/s 143(3) of Income Tax Act, 1961 on 21/01/2016 wherein the assessee was saddled with additions of Rs.16.67 Lacs on account of unaccounted scrap sales. The perusal of Profit & Loss Account revealed that the assessee reflected scarp sales of Rs.4.60 Lacs which included scrap sale of Rs.3.78 Lacs stated to be generated during manufacturing process. The perusal of quantitative details revealed that the assessee generated scrap of 107667 Kg which was sold at an average rate of Rs.3.51 per Kg. The market inquiries revealed that scrap generated by other units was being sold at an average price of Rs.22.50 per Kg. The assessee defended the same by submitting that the scrap generated during manufacturing process was not pure and clean scrap but contaminated with foreign items and would not have ready market and therefore, would not fetch fair market price of pure and clean scrap. However, Ld. AO opined that the scrap generated in any manufacturing process would be contaminated. Finally, the price of the scrap was estimated at Rs.19/- per



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Kg and the differential amount of Rs.16.67 Lacs was added to the income of the assessee.

3. The learned first appellate authority, *inter-alia*, after considering the price range and margins etc. made the estimation @Rs.7.50 per Kg. Still aggrieved, the assessee is under appeal before us.

4. We have heard and considered the rival submissions.

4. Upon due consideration, we find that additions have been made as well sustained on mere estimations without there being any cogent supportive material. The Ld. AO has opined that the scrap would fetch more market value without considering the fact that the scrap may be of varied nature keeping in view the nature of manufacturing process. Nevertheless, to put an end to litigation, we direct the lower authorities to value the scrap at Rs.5/- per Kg and restrict the addition to the differential amount i.e. Rs.1,60,219/- ($107667 \times 5 = \text{Rs.}538335/-$ - Rs.378116/-). The balance addition stands deleted.

5. The appeal stands partly allowed.

Order pronounced in the open court on 17th September, 2019.

Sd/-

(Mahavir Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 17/09/2019
Sr.PS:-Jaisy Varghese



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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**