

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI N.K.PRADHAN, ACCOUNTANT MEMBER

ITA NO.84/MUM/2019(A.Y.2009-10)

M/s. Industrial Steel Rolling Mills & Co.
c/o. Gayakwad and Arracken,
401, Ganesh Tower, Opp. Petrol Pump,
Agra Road, Kalyan West,
Thane 421 301
PAN; AACFI 4400N

..... Appellant

Vs.

ITO, Ward 2(1),
Kalyan

..... Respondent

Appellant by : Dr. P. Daniel
Respondent by : Shri Dharm Veer Singh

Date of hearing : 13/01/2020
Date of pronouncement : 13/01/2020

ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax(Appeals)-3, Thane [in short 'the CIT(A)] dated 16/10/2018 for the assessment year 2009-10.

2. Dr. P. Daniel appearing on behalf of the assessee submitted that the assessee is engaged in the business of steel rolling. On the basis of information received from Maharashtra Sales Tax Department, the assessment for assessment year 2009-10

was reopened on the ground that assessee has indulged in obtaining bogus purchases bills. The Id. Authorized Representative for the assessee submitted that in proceedings before CIT(A) assessee has produced copies of the ledger extract, purchase bills, bank statements, confirmation of payments, etc. to prove the genuineness of the purchases. The CIT(A) sought remand report from the Assessing Officer on the documents furnished by the assessee. In the remand report the Assessing Officer has not controverted the documents furnished by the assessee. The only reason for making the addition was that the assessee has failed to produce the parties from whom purchases were made. The Id. Authorized Representative for the assessee submitted that the Assessing Officer in assessment proceedings made addition of the entire alleged bogus purchases aggregating to Rs.1,46,457/- from three parties. The CIT(A) upheld the findings of Assessing Officer. The Id. Authorized Representative for the assessee submitted that the sales made by the assessee have not been doubted. Hence, without purchases there cannot be sales. The Id. Authorized Representative for the assessee further pointed that the alleged bogus purchases are only 0.52% of the total purchases. The assessee has made all the purchases from genuine parties and has not indulged in obtaining any bogus bills to inflate expenses.

3. Shri Dharm Veer Singh representing the Department vehemently defended the impugned order. The Id. Departmental Representative submitted that the assessee never participated in the reassessment proceedings. Despite repeated notices, the assessee failed to appear and prove genuineness of the purchases in question. Thus, the Assessing Officer was constrained to pass assessment order under section 144 rw.s. 147 of the Act. Even in the proceedings before CIT(A), the assessee has failed to prove genuineness of the purchases, hence, the CIT(A) confirmed the addition.

4. We have heard the submissions made by rival sides and have perused the orders of authorities below. The Assessing Officer has made addition of Rs.1,46,457/- i.e. entire alleged bogus purchases made by the assessee from alleged hawala operators. Undisputedly, the assessee failed to appear before the Assessing Officer, hence, the Assessing Officer passed the assessment order invoking the provisions of section 144 of the Act. The assessee has filed various documents before the CIT(A) to prove genuineness of the transactions. The Revenue has not disputed the contentions of the assessee that purchases under question are only a miniscule fraction of the total sales declared by the assessee. Even otherwise, the Revenue has not raised any doubt over sales declared by the assessee. Without purchases, there cannot be sales. Considering the volume of purchases under the shadow of doubt, we find no reason to doubt the genuineness of purchases. In the peculiar facts of the case, we see no reason to uphold the addition on account of bogus purchases.

5. In the result, impugned order is set-aside and appeal of the assessee is allowed.

Order pronounced in the open court on Monday, the 13th day of January, 2020.

Sd/-
(N.K.PRADHAN)
ACCOUNTANT MEMBER

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Dated 13/01/2020
Vm, Sr. PS(O/S)

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
Mumbai

ITAT,