

**IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH
MUMBAI**

**BEFORE SHRI MAHAVIR SINGH, JM
&
SHRI M.BALAGANESH, AM**

**ITA No.6974/Mum/2018
(Assessment Year :2010-11)**

ITO – 19(1)(2), Mumbai Room No.204, 2 nd Floor Mathru Mandir Tardeo Road Mumbai – 400 007	Vs.	Shri Babulal Jetharamji Vishnoi R.No.4, Gr. Floor 91/95, Mukund Bhavan 3 rd Kumbharwada Lane Mumbai – 400 004
PAN/GIR No. AEIPV2812H		
(Appellant)	..	(Respondent)

Revenue by	Ms. Kavita P. Kaushik
Assessee by	Shri Satish R Mody
Date of Hearing	09/01/2020
Date of Pronouncement	15/01/2020

आदेश / O R D E R

PER M. BALAGANESH (A.M):

This appeal in ITA No.6974/Mum/2018 for A.Y.2010-11 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-54, Mumbai in appeal No.CIT(A)-30/IT-964/ITO-19(1)(2)/2016-17 dated 28/09/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 27/02/2016 by the Id. Income Tax Officer – 19(1)(2), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in directing the Id. AO to allow set off of the gross profit already shown by the assessee from the addition of profit rate at 12.5% on account of bogus purchase in the facts and circumstances of the case.

3. We have heard the rival submissions. We find that assessee is an individual running proprietary concern in the name of M/s. Roshan Steel India engaged in the business of trading in ferrous and non-ferrous metals. We find that assessee had made certain purchases from certain suppliers totalling to Rs.80,93,141/- whose names appeared in the list of havala dealers published by the Maharashtra Sales Tax Department and said information was passed on to Income Tax Investigation Wing which ultimately triggered the reopening of the assessment in the case of the assessee.

3.1. We find that the Id. AO took due cognizance of the fact of various documents submitted by the assessee to support aforesaid purchases made to the tune of Rs.80,93,141/- and ultimately concluded that the purchases were indeed actually made by the assessee from grey market and sales were also made and disclosed out of such purchases. Accordingly, only the profit element could be brought to tax thereon. The Id. AO estimated the profit element embedded in such purchases at 12.5% and made an addition of Rs.10,11,643/- in the assessment. We find that the Id. CIT(A) upheld the estimated percentage of 12.5% as profit element but granted partial relief to the assessee by directing the Id. AO to reduce the gross profit already declared by the assessee in the return of income from the aforesaid estimated profit of 12.5%. Aggrieved by this action, the revenue is in appeal before us. Both the parties before

us submitted that no appeal has been preferred by the assessee against the action of the Id. CIT(A) before this Tribunal. Considering the totality of facts and circumstances, we do not find any infirmity in the order of the Id CITA in this regard. The grounds raised by the revenue are dismissed.

4. In the result, appeal of the revenue is dismissed.

Order pronounced in the open court on this 15/01/2020

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 15/01/2020
KARUNA, *sr.ps*

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.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai