

आयकर अपीलीय अधिकरण  
मुंबई पीठ "एस एम सी"  
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
आअसं. 6513/मुं/2018 (नि.व.2010-11)  
ITA NO. 6513/MUM/2018 (A.Y.2010-11)

|                                                                                                          |                      |                                                              |
|----------------------------------------------------------------------------------------------------------|----------------------|--------------------------------------------------------------|
| M/s Ru-Met Corporation,<br>Shop No. 4/5, Janki Niwas,<br>Ground Floor, Khadilkar Road,<br>Mumbai 400 004 | <b>बनाम /</b><br>Vs. | The ITO -19(3)(2)<br>Matru Mandir, Tardeo,<br>Mumbai 400 007 |
| <b>PAN/GIR No:AAEFM7499M</b>                                                                             |                      |                                                              |
| (अपीलार्थी/ <b>Appellant</b> )                                                                           | :                    | (प्रत्यर्थी / <b>Respondent</b> )                            |

|                    |   |                             |
|--------------------|---|-----------------------------|
| <b>Assessee by</b> | : | None                        |
| <b>Revenue by</b>  | : | Shri Ajay Pratap Singh (DR) |

|                                                  |   |            |
|--------------------------------------------------|---|------------|
| सुनवाई की तारीख/<br><b>Date of Hearing</b>       | : | 14/10/2020 |
| घोषणा की तारीख /<br><b>Date of Pronouncement</b> | : | 26/10/2020 |

आदेश / ORDER

This appeal by the assessee is directed against the order of Commissioner of Income-Tax (Appeals)-6, Mumbai [in short 'the CIT(A)'] dated 15.10.2018 for the Assessment Year 2010-11.

2. The brief facts of the case as emanating from the records are: The assessee is engaged in trading of ferrous and non ferrous metals. The assessment for Assessment Year 2010-11 in the case of assessee was re-opened on the basis of information received by DGIT (Investigation) from Maharashtra Sales Tax Department that the assessee has indulged in obtaining accommodation entries to the tune of Rs. 83,38,196/- from hawala operators.

In re-assessment proceeding, the Assessing Officer estimated gross profit on alleged bogus purchase bills @ 12.5% and made addition of Rs. 10,42,275/-.

Aggrieved against the assessment order dated 17.03.2016 passed under section 143(3) r.w.sec. 147 of the Income Tax Act, 1961 (hereinafter referred as 'the Act'), the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee and confirmed the addition made by Assessing Officer. Against the findings of CIT(A), the assessee is in appeal before the Tribunal.

3. Shri Ajay Pratap Singh representing the department vehemently defended the impugned order and prayed for dismissing the appeal of assessee. The Id. DR submitted that the Assessing Officer/CIT(A) have estimated reasonable gross profit on bogus purchases made by the Assessing Officer.

4. Submissions made by Id. DR heard and orders of the authorities below examined. The assessee is a trader in ferrous and non-ferrous metals. The estimation of gross profit @ 12.5% of the alleged bogus purchase appears to be on higher side. I am of considered view that the ends of justice would be met, if gross profit on bogus purchase is restricted to 5%. In view of my above observation, the ground no. 2.1 and 3.1 of the appeal are partly allowed.

5. In ground no. 1.1 to 1.4 of the appeal, the assessee has raised legal issues challenging validity of re-assessment. Since, the ground on merit have been adjudicated granting relief to the assessee, the legal grounds are not taken up for adjudication at this stage. In ground No.4 of the appeal, the

assessee has raised alternative ground of reducing gross profit offered by the assessee from gross profit estimated by the Assessing Officer. Since, ground no. 2.1 and 3.1 of the appeal are decided in favour of the assessee, the ground no.4 has become infructuous.

6. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on **Monday** the **26<sup>th</sup>** day of October, 2020.

**Sd/-**

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL  
MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 26/10/2020

S.K., PS

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.आपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai