

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC-1" : DELHI
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER
ITA.No.2076/Del./2019
Assessment Year 2008-2009

M/s. A.P. Metal, Prop. Sh. Pradeep Kumar Gupta, 1990, Bagichi Raghunath, Sadar Bazar, New Delhi – 110 006. PAN AAEPG7987L (Appellant)	vs.	The Income Tax Officer, Ward – 63(3), New Delhi. (Respondent)
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For Assessee :	Shri Ved Jain, Advocate And Shri Ashish Goel, C.A.
For Revenue :	Shri Prakash Dubey, Sr. DR

Date of Hearing :	19.01.2021
Date of Pronouncement :	01.02.2021

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-20, New Delhi, Dated 20.12.2018, for the A.Y. 2008-2009, challenging the reopening of the assessment under section 147/148 of the

I.T. Act, 1961 and addition of Rs.7,88,177/- on account of purchases under section 69C of the I.T. Act, 1961.

2. We have heard the Learned Representative of both the parties through video conferencing and perused the material available on record.

3. Briefly the facts of the case are that return of income was filed by assessee on 23.09.2008 declaring therein an income of Rs.1,85,750/-. It was processed under section 143(1) of the I.T. Act. Later on, information was received from ACIT, Central Circle-10, New Delhi vide his letter dated 13.03.2013 forwarded through CIT. Central-II, New Delhi and the CCIT, Delhi-I, New Delhi vide their letters dated 19.03.2013 and 26.03.2013 respectively therein providing a CD wherein the list of parties to whom the bogus purchases/accommodation entries provided by Sh. Rakesh Gupta, Sh. Vishesh Gupta, Sh. Navneet Jain and Shri Vaibhav Jain was appearing. After going through the complete list and identifying the parties whose territorial jurisdiction lies with the O/o. Assessing Officer, after

properly recording the reasons for forming the belief that the income of Rs.7,88,177/- has escaped assessment in the case of assessee, the case was, therefore, reopened under section 147 of the I.T. Act, 1961. The A.O. after giving opportunity of being heard, made the above addition i.e., bogus purchases of the impugned amount received by assessee through these persons from M/s. Govardhan International and Shree Bankey Bihari Trading Co. and assessment was completed on Dated 18.03.2016.

4. The assessee challenged the reopening of the assessment as well as addition on merit before the Ld. CIT(A) and it was submitted that in A.Y. 2006-2007 an identical issue have been decided by the ITAT, Delhi Bench in the case of the same assessee in ITA.No.1373/Del./2015, Dated 30.08.2017 and re-assessment have been quashed and addition on merit have been deleted. The detailed written submissions of the assessee is also reproduced in the appellate order. The Ld. CIT(A), however, did not follow the Order of the Tribunal and dismissed the appeal of assessee.

5. Learned Counsel for the Assessee reiterated the submissions made before the authorities below and referred to Order of the Tribunal for the preceding A.Y. 2006-2007 Dated 30.,08.2017 [PB-145] and submitted that the issue is covered in favour of the assessee and there were no reason for the Ld. CIT(A) for not following the Order of the Tribunal in the case of assessee.

6. On the other hand, Ld. D.R. relied upon the Orders of the authorities below.

7. After considering the rival submissions, we are of the view that the issue is covered by the Order of the ITAT, Delhi A-Bench, Delhi in the case of same assessee for the A.Y. 2006-2007 Dated 30.08.2017 (supra). In this Order, the Tribunal has decided two appeals of M/s. Bright Metal Agency and M/s. A.P. Metal Co. [Assessee]. The lead case was M/s. Bright Metal Agency in which the reasons for reopening of the assessment are recorded in which it is specifically mentioned that reopening have been done on the identical reason for providing accommodation entries on account of bogus purchases by the same persons S/Shri

Rakesh Gupta, Vishesh Gupta, Navneet Jain and Vaibhav Jain, the reopening of the assessment has been set aside and quashed and addition on merit have also been deleted. The same Order is followed in the same of same assessee and reopening of the assessment have been quashed and addition on merit have been deleted. Since the facts are identical as compared to the A.Y. 2006-2007, therefore, the Ld. CIT(A) being subordinate to the Tribunal in judicial hierarchy was bound to follow the Order of the Tribunal. He has no justification to refuse to follow the Order of the Tribunal. Following the Order of the Tribunal for the A.Y. 2006-2007, we set aside the Orders of the authorities below and quash the reopening of the assessment and delete the addition as well. Accordingly, appeal of the Assessee is allowed.

8. In the result, appeal of the Assessee allowed.

Order pronounced in the open Court.

Sd/-
(B.R.R. KUMAR)
ACCOUNTANT MEMBER
Delhi, Dated 01st February, 2021
VBP/-

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC-1' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.