

आयकर अपीलीय अधिकरण  
मुंबई पीठ "एस एम सी"  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष एवं  
श्री एस. रिफौर रहमान, लेखा सदस्य के समक्ष  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER.  
आअसं. 4588/मुं/2019 (नि.व.2010-11)  
ITA NO. 4588/MUM/2019 (A.Y.2010-11)

Ramachandra U Choudhary,  
Ashapura Steel India, Shop No.4,  
55/57, Golpitha Bldg.  
4th Kumbharwada, Mumbai 400 004.  
PAN:AHRPC 0300M

: अपीलार्थी/ **Appellant**

**बनाम/** Vs.

ITO-19(3)(1),  
Room No.202, Matru Mandir,  
Tardeo, Mumbai 400 007

: प्रत्यर्थी/ Respondent

**Assessee by** : None  
**Revenue by** : Shri Sanjay J. Sethi  
सुनवाई की तारीख/  
**Date of Hearing** : 12/01/2021  
घोषणा की तारीख /  
**Date of Pronouncement** : 18/01/2021

आदेश/ ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-30, Mumbai ( in short 'the CIT(A)') dated 09/05/2019 for the assessment year 2010-11.

2. The brief facts of the case as emanating from records are: The assessee is engaged in trading of ferrous and non-ferrous metals. On the basis of information received by DGIT(Inv), Mumbai from Sales Tax Department, Government of

Maharashtra that the assessee has indulged in obtaining bogus purchase bills amounting to Rs.22,77,663/- from various suspicious dealers, the assessment in the case of assessee for assessment year 2010-11 was reopened. Despite service of notices issued under section 148 and 143(1) of the Income Tax Act, 1961( in short 'the Act'), the assessee failed to appear before the Assessing Officer. The Assessing Officer completed assessment under section 144 r.w.s. 147 of the Act and made addition of the entire alleged bogus purchases. Aggrieved by the assessment order dated 05/02/2016, the assessee filed appeal before the CIT(A). During the first appellate proceedings the assessee again choose not to appear before the CIT(A) despite repeated notices. The CIT(A) in an ex-parte proceedings confirmed the findings of Assessing Officer and dismissed the appeal of assessee. Hence, the assessee is in second appeal before the Tribunal.

3. Shri Sanjay J. Sethi, representing the Department submitted that assessee has been non-cooperative during the assessment proceedings as well as the proceedings before the CIT(A). The assessee has indulged in obtaining bogus purchase bills from declared hawala operators. The Assessing Officer in absence of any evidence to prove genuineness of purchases made addition of 100% bogus purchases. The assessee after filing appeal before the CIT(A) did not bother to appear before CIT(A) despite service of several notices. The CIT(A) had no other option but to decide the appeal in an ex-parte proceedings.

4. We have heard the submissions made by Id. Departmental Representative and have examined the orders of authorities below. A perusal of assessment order and the impugned order shows that the assessee has failed to appear before the Assessing Officer and the CIT(A) despite service of notices repeatedly. The conduct of assessee before the authorities below is deplorable. It gives an impression that the assessee has no respect for the law. Keeping aside the past conduct of assessee for the time being, in the interest of justice we deem it appropriate to grant an

opportunity to the assessee to appear before the CIT(A) and produce necessary documents to substantiate the submissions. The CIT(A) shall decide the appeal de-novo after affording reasonable opportunity of hearing to the assessee, in accordance with law.

5. It is made clear that if still the assessee fails to appear before the CIT(A) after proper service of notice, the CIT(A) shall be at liberty to take adverse view.

6. The impugned order is set-aside and the appeal of assessee is restored to CIT(A) for fresh adjudication.

7. The appeal is allowed for statistical purpose.

Order pronounced in the open Court on Monday, the 18<sup>th</sup> day of January, 2021.

Sd/-

(S.RIFAUH RAHMAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 18/01/2021

Vm, Sr. PS(O/S)

**प्रतिलिपि अग्रेषितCopy 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.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)  
ITAT, Mumbai